

103D CONGRESS  
2D SESSION

**S. 540**

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## **AN ACT**

To improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

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## AN ACT

To improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE IMPROVEMENT.—This Act may be  
5       cited as the “Bankruptcy Amendments Act of 1994”.

- 1 (b) TABLE OF CONTENTS.—The table of contents is  
 2 as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

- Sec. 101. Expedited hearing on automatic stay.  
 Sec. 102. Expedited filing of plans under chapter 11.  
 Sec. 103. Expedited procedure for reaffirmation of debts.  
 Sec. 104. Powers of bankruptcy courts.  
 Sec. 105. Participation by bankruptcy administrator at meetings of creditors and equity security holders.  
 Sec. 106. Definition relating to eligibility to serve on chapter 11 committees.  
 Sec. 107. Increased incentive compensation for trustees.  
 Sec. 108. Dollar adjustments.  
 Sec. 109. Premerger notification.  
 Sec. 110. Allowance of creditor committee expenses.  
 Sec. 111. Judicial conference report.  
 Sec. 112. Service of process in bankruptcy proceedings on an insured depository institution.  
 Sec. 113. Meetings of creditors and equity security holders.  
 Sec. 114. Tax assessment.  
 Sec. 115. Additional trustee compensation.  
 Sec. 116. Extension to certain judicial officials of life insurance rules currently applicable to Federal judges.  
 Sec. 117. Settlement of claims and demands for payment.  
 Sec. 118. Recommendations of the judicial conference for the appointment of bankruptcy judges.

#### TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

- Sec. 201. Small businesses.  
 Sec. 202. Single asset real estate.  
 Sec. 203. Aircraft equipment, vessels, and rolling stock equipment.  
 Sec. 204. Unexpired leases of personal property in chapter 11 cases.  
 Sec. 205. Protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal.  
 Sec. 206. Protection of security interest in post-petition rents.  
 Sec. 207. Anti-alienation.  
 Sec. 208. Exemption.  
 Sec. 209. Indenture trustee compensation.  
 Sec. 210. Payment of taxes with borrowed funds.  
 Sec. 211. Return of goods.  
 Sec. 212. Exception to discharge.  
 Sec. 213. Proceeds of money order agreements.  
 Sec. 214. Limitation on liability of noninsider transferee for avoided transfer.  
 Sec. 215. Perfection of purchase-money security interest.  
 Sec. 216. Airport gate leases.  
 Sec. 217. Trustee duties.  
 Sec. 218. Payments.  
 Sec. 219. Continued perfection.  
 Sec. 220. Notices to creditors.  
 Sec. 221. Supplemental injunctions.  
 Sec. 222. Rejection of unexpired leases of real property or timeshare interests.

- Sec. 223. Contents of plan.
- Sec. 224. Priority for independent sales representatives.
- Sec. 225. Amend Bankruptcy Code.

#### TITLE III—CONSUMER BANKRUPTCY ISSUES

- Sec. 301. Period for curing default relating to principal residence.
- Sec. 302. Nondischargeability of fine under chapter 13.
- Sec. 303. Impairment of exemptions.
- Sec. 304. Protection of child support and alimony.
- Sec. 305. Bankruptcy petition preparers.
- Sec. 306. Conversion or dismissal.
- Sec. 307. Contents of plan.
- Sec. 308. Stay of action against codebtor.
- Sec. 309. Exemption for household goods.
- Sec. 310. Professional fees.
- Sec. 311. Interest on interest.
- Sec. 312. Fairness to condominium and cooperative owners.
- Sec. 313. Nonavoidability of fixing of lien on tools and implements of trade, animals, and crops.
- Sec. 314. Nondischargeability of debt for money, property, services, or credit obtained by false pretense, false representation, or fraud.
- Sec. 315. Conversion of case under chapter 13.
- Sec. 316. Rent-to-own contracts.

#### TITLE IV—BANKRUPTCY REVIEW COMMISSION

- Sec. 401. Short title.
- Sec. 402. Establishment.
- Sec. 403. Duties of the commission.
- Sec. 404. Membership.
- Sec. 405. Compensation of the commission.
- Sec. 406. Staff of commission; experts and consultants.
- Sec. 407. Powers of the commission.
- Sec. 408. Report.
- Sec. 409. Termination.
- Sec. 410. Authorization of appropriations.

#### TITLE V—BANKRUPTCY FRAUD

- Sec. 501. Bankruptcy fraud.

#### TITLE VI—TECHNICAL CORRECTIONS

- Sec. 601. Title 11, United States Code.
- Sec. 602. Title 28, United States Code.

#### TITLE VII—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

- Sec. 701. Severability.
- Sec. 702. Effective date; application of amendments.

#### TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. Limitation on State taxation of certain pension income.
- Sec. 802. Protection against discriminatory treatment of applications for student loans.

Sec. 803. Chicago Housing Authority.

1                   **TITLE I—IMPROVED**  
2                   **BANKRUPTCY ADMINISTRATION**

3                   **SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.**

4                   The last sentence of section 362(e) of title 11, United  
5 States Code, is amended—

6                   (1) by striking “commenced” and inserting  
7 “concluded”; and

8                   (2) by inserting “, unless the 30-day period is  
9 extended with the consent of the parties in interest  
10 or for a specific time which the court finds is re-  
11 quired by compelling circumstances” before the pe-  
12 riod at the end.

13                   **SEC. 102. EXPEDITED FILING OF PLANS UNDER CHAPTER**  
14                   **11.**

15                   Section 1121(d) of title 11, United States Code, is  
16 amended—

17                   (1) by striking “On” and inserting “(1) Subject  
18 to paragraph (2), on”; and

19                   (2) by adding at the end the following new  
20 paragraph:

21                   “(2) Under paragraph (1)—

22                   “(A) the 120-day period referred to in this sec-  
23 tion may not be increased beyond the 1-year period  
24 beginning on the date of the order for relief under  
25 this chapter; and

1 “(B) the 180-day period referred to in this sec-  
 2 tion may not be increased beyond the 425-day period  
 3 beginning on the date of the order for relief under  
 4 this chapter,  
 5 unless the need for such an increase is attributable to cir-  
 6 cumstances for which the debtor should not justly be held  
 7 accountable.”.

8 **SEC. 103. EXPEDITED PROCEDURE FOR REAFFIRMATION**  
 9 **OF DEBTS.**

10 (a) REAFFIRMATION.—Section 524(c) of title 11,  
 11 United States Code, is amended—

12 (1) in paragraph (2)—

13 (A) by inserting “(A)” after “(2)”;

14 (B) by adding “and” at the end; and

15 (C) by inserting after subparagraph (A),  
 16 as designated by subparagraph (A), the follow-  
 17 ing new subparagraph:

18 “(B) such agreement contains a clear and  
 19 conspicuous statement that advises the debtor  
 20 that the agreement is not required under this  
 21 title, under nonbankruptcy law, or under any  
 22 agreement that is not in accordance with the  
 23 provisions of this subsection;”; and

24 (2) in paragraph (3)—

1 (A) in the matter preceding subparagraph  
 2 (A) by striking “such agreement” the last place  
 3 it appears;

4 (B) in subparagraph (A)—

5 (i) by inserting “such agreement”  
 6 after “(A)”;

7 (ii) by striking “and” at the end; and

8 (C) in subparagraph (B)—

9 (i) by inserting “such agreement”  
 10 after “(B)”;

11 (ii) by adding “and” at the end; and

12 (3) by adding at the end the following new sub-  
 13 paragraph:

14 “(C) the attorney fully advised the debtor  
 15 of the legal effect and consequences of—

16 “(i) an agreement of the kind de-  
 17 scribed in this subsection; and

18 “(ii) any default under such an agree-  
 19 ment;”.

20 (b) EFFECT OF DISCHARGE.—The third sentence of  
 21 section 524(d) of title 11, United States Code, is amended  
 22 in the matter preceding paragraph (1) by inserting “and  
 23 was not represented by an attorney during the course of  
 24 negotiating the agreement” after “this section”.

1 **SEC. 104. POWERS OF BANKRUPTCY COURTS.**

2 (a) STATUS CONFERENCES.—Section 105 of title 11,  
3 United States Code, is amended by adding at the end the  
4 following new subsection:

5 “(d) The court, on its own motion or on the motion  
6 of any party in interest, may—

7 “(1) hold a status conference regarding any  
8 case or proceeding under this title after notice to the  
9 parties in interest; and

10 “(2) unless it would be inconsistent with an-  
11 other provision of this title or with applicable Bank-  
12 ruptcy Rules, issue an order at any such conference  
13 prescribing such limitations and conditions as the  
14 court deems to be appropriate to ensure that the  
15 case is handled expeditiously and economically, in-  
16 cluding an order that—

17 “(A) sets the date by which the debtor  
18 must accept or reject an executory contract or  
19 unexpired lease; or

20 “(B) in a case under chapter 11—

21 “(i) sets a date by which the debtor,  
22 or the trustee if one has been appointed,  
23 shall file a disclosure statement and plan;

24 “(ii) sets a date by which the debtor,  
25 or the trustee if one has been appointed,  
26 shall solicit acceptances of a plan;



1 “(iii) sets the date by which a party  
 2 in interest other than a debtor may file a  
 3 plan;

4 “(iv) fixes the notice to be provided  
 5 regarding the hearing on approval of the  
 6 disclosure statement;

7 “(v) provides that the hearing on ap-  
 8 proval of the disclosure statement may be  
 9 combined with the hearing on confirmation  
 10 of the plan; and

11 “(vi) directs the use of standard-form  
 12 disclosure statements, plans, or other  
 13 forms that have been adopted by the  
 14 court.”.

15 (b) ESTABLISHMENT, OPERATION, AND TERMI-  
 16 NATION OF BANKRUPTCY APPELLATE PANEL SERVICE.—  
 17 Section 158(b) of title 28, United States Code, is amend-  
 18 ed—

19 (1) by striking paragraphs (3) and (4);

20 (2) by redesignating paragraph (2) as para-  
 21 graph (4);

22 (3) by striking paragraph (1) and inserting the  
 23 following new paragraphs:

24 “(1)(A) Except as provided in subparagraph (B), the  
 25 judicial council of a circuit shall establish a bankruptcy

1 appellate panel service composed of bankruptcy judges of  
2 the districts in the circuit who are appointed by the judi-  
3 cial council in accordance with paragraph (3), to hear and  
4 determine, with the consent of all parties to an appeal,  
5 appeals under subsection (a).

6 “(B) The judicial council of a circuit need not estab-  
7 lish a bankruptcy appellate panel service if the judicial  
8 council finds that—

9 “(i) there are insufficient judicial resources  
10 available in the circuit;

11 “(ii) establishment of such a service would re-  
12 sult in undue delay or increased cost to parties in  
13 cases under title 11; or

14 “(iii)(I) other factors of sound judicial adminis-  
15 tration make the creation of such a service inappro-  
16 priate; and

17 “(II) bankruptcy appeals are being heard and  
18 decided by the district courts in a timely manner.

19 “(2)(A)(i) A judicial council may at any time recon-  
20 sider its decision to create or not to create a bankruptcy  
21 appellate panel service.

22 “(ii) A decision on reconsideration under clause (i)  
23 shall be submitted to the Judicial Conference of the Unit-  
24 ed States within 90 days after it is made.

1       “(B) If the judicial council of a circuit finds that a  
2 circumstance described in paragraph (1)(B) (i), (ii), or  
3 (iii) exists, the judicial council may provide for the comple-  
4 tion of the appeals then pending before a bankruptcy ap-  
5 pellate panel service and the orderly termination of the  
6 service.

7       “(3) Bankruptcy judges appointed under paragraph  
8 (1) shall be appointed for a term of 2 years and may be  
9 reappointed under that paragraph.”; and

10           (4) by inserting after paragraph (4), as redesign-  
11 nated by paragraph (2), the following new para-  
12 graphs:

13       “(5) An appeal to be heard under this subsection  
14 shall be heard by a panel of 3 members of the bankruptcy  
15 appellate panel service, except that a member of the serv-  
16 ice may not hear an appeal originating in the district for  
17 which the member is appointed or designated under sec-  
18 tion 152.

19       “(6) Appeals may not be heard under this subsection  
20 by a panel of the bankruptcy appellate panel service unless  
21 the district judges for the district in which the appeals  
22 occur, by majority vote, have authorized the service to  
23 hear and determine appeals originating in that district.”.

1 (c) APPEALS TO BE HEARD BY BANKRUPTCY AP-  
2 PELLATE PANEL SERVICE.—Section 158 of title 28, Unit-  
3 ed States Code, is amended—

4 (1) in subsection (c) by striking “(c) An ap-  
5 peal” and inserting the following:

6 “(c)(1) Subject to subsection (b), an appeal under  
7 subsection (a) shall be heard by a 3-judge panel of the  
8 bankruptcy appellate panel service established under sub-  
9 section (b)(1) unless—

10 “(A) the appellant elects, at the time of filing  
11 the appeal; or

12 “(B) any other party elects, not later than 30  
13 days after service of notice of the appeal,  
14 to have the appeal heard by the district court.

15 “(2) An appeal”.

16 (d) RULES OF PROCEDURE AND EVIDENCE; METHOD  
17 OF PRESCRIBING.—Section 2073 of title 28, United  
18 States Code, is amended—

19 (1) in subsection (a)(2) by striking “section  
20 2072” and inserting “sections 2072 and 2075”; and

21 (2) in subsections (d) and (e) by inserting “or  
22 2075” after “2072” each place it appears.

23 (f) EFFECTIVE DATE OF BANKRUPTCY RULES.—The  
24 third undesignated paragraph of section 2075 of title 28,  
25 United States Code, is amended to read as follows:

1       “The Supreme Court shall transmit to Congress not  
2 later than May 1 of the year in which a rule prescribed  
3 under this section is to become effective a copy of the pro-  
4 posed rule. The rule shall take effect no earlier than De-  
5 cember 1 of the year in which it is transmitted to Congress  
6 unless otherwise provided by law.”.

7 **SEC. 105. PARTICIPATION BY BANKRUPTCY ADMINIS-**  
8 **TRATOR AT MEETINGS OF CREDITORS AND**  
9 **EQUITY SECURITY HOLDERS.**

10       (a) **PRESIDING OFFICER.**—A bankruptcy adminis-  
11 trator appointed under section 302(d)(3)(I) of the Bank-  
12 ruptcy Judges, United States Trustees, and Family Farm-  
13 er Bankruptcy Act of 1986 (28 U.S.C. 581 note; 100 Stat.  
14 3123), or the bankruptcy administrator’s designee, may  
15 preside at—

16           (1) a meeting of creditors convened under sec-  
17 tion 341(a) of title 11, United States Code; and

18           (2) a meeting of equity security holders con-  
19 vened under section 341(b) of title 11, United States  
20 Code.

21       (b) **EXAMINATION OF THE DEBTOR.**—The bank-  
22 ruptcy administrator or the bankruptcy administrator’s  
23 designee may examine the debtor at the meeting of credi-  
24 tors and may administer the oath required under section  
25 343 of title 11, United States Code.

1 **SEC. 106. DEFINITION RELATING TO ELIGIBILITY TO SERVE**  
2 **ON CHAPTER 11 COMMITTEES.**

3 The definition of “person” in section 101 of title 11,  
4 United States Code, as amended by section 501(a), is  
5 amended to read as follows:

6 “‘person’ includes an individual, partnership,  
7 and corporation, but does not include a govern-  
8 mental unit, except that a governmental unit that—

9 “(A) acquires an asset from a person—

10 “(i) as a result of the operation of a  
11 loan guarantee agreement; or

12 “(ii) as receiver or liquidating agent  
13 of a person;

14 “(B) is a guarantor of a pension benefit  
15 payable by or on behalf of the debtor or an af-  
16 filiate of the debtor; or

17 “(C) is the legal or beneficial owner of an  
18 asset of—

19 “(i) an employee pension benefit plan  
20 that is a governmental plan, as defined in  
21 section 414(d) of the Internal Revenue  
22 Code of 1986; or

23 “(ii) an eligible deferred compensation  
24 plan, as defined in section 457(b) of the  
25 Internal Revenue Code of 1986,

1 shall be considered, for purposes of section 1102, to  
2 be a person with respect to such asset or such bene-  
3 fit.”.

4 **SEC. 107. INCREASED INCENTIVE COMPENSATION FOR**  
5 **TRUSTEES.**

6 Section 326(a) of title 11, United States Code, is  
7 amended to read as follows:

8 “(a)(1) In a case under chapter 7 or 11, the court  
9 may allow reasonable compensation of the trustee under  
10 section 330 for the trustee’s services, payable after the  
11 trustee renders such services, in an amount that does not  
12 exceed—

13 “(A) the value of the funds and other property  
14 disbursed or turned over by the trustee to parties in  
15 interest in the case (excluding the debtor but includ-  
16 ing holders of secured claims), multiplied by

17 “(B) the applicable percentage stated in para-  
18 graph (2).

19 “(2) The applicable percentage stated in this para-  
20 graph is the following percentage of the value of the funds  
21 and other property disbursed or turned over by the trust-  
22 ee:

23 “(A) 25 percent of any amount up to \$4,999.

24 “(B) 10 percent of any amount between \$5,000  
25 and \$49,999 inclusive.

1           “(C) 5 percent of any amount between \$50,000  
2           and \$999,999 inclusive.

3           “(D) A reasonable percentage, not to exceed 3  
4           percent, of any amount greater than \$999,999.”.

5   **SEC. 108. DOLLAR ADJUSTMENTS.**

6           (a) WHO MAY BE A DEBTOR UNDER CHAPTER 13.—  
7   Section 109(e) of title 11, United States Code, is amend-  
8   ed—

9           (1) by striking “unsecured debts of less than  
10       \$100,000 and noncontingent, liquidated, secured  
11       debts of less than \$350,000” and inserting “debts of  
12       less than \$1,000,000”; and

13          (2) by striking “unsecured debts that aggregate  
14       less than \$100,000 and noncontingent, liquidated,  
15       secured debts of less than \$350,000” and inserting  
16       “debts in the aggregate of less than \$1,000,000”.

17          (b) INVOLUNTARY CASES.—Section 303(b) of title  
18   11, United States Code, is amended—

19           (1) in paragraph (1) by striking “\$5,000” and  
20       inserting “\$10,000”; and

21           (2) in paragraph (2) by striking “\$5,000” and  
22       inserting “\$10,000”.

23          (c) PRIORITIES.—Section 507(a) of title 11, United  
24   States Code, is amended—



1           (1) in paragraph (3)(B) by striking “\$2,000”  
2           and inserting “\$4,000”;

3           (2) in paragraph (4)(B)(i) by striking “\$2,000”  
4           and inserting “\$4,000”;

5           (3) in paragraph (5) by striking “\$2,000” and  
6           inserting “\$4,000”; and

7           (4) in paragraph (6)—

8                 (A) by striking “, to the extent of \$900 for  
9                 each such individual,”; and

10                (B) by inserting “, to the extent of \$1,800  
11                for each such individual or, in the case of a de-  
12                posit made jointly by 2 or more individuals with  
13                respect to the same purchase, lease, or rental,  
14                for each such group of individuals” before the  
15                period.

16           (d) EXEMPTIONS.—Section 522(d) of title 11, United  
17 States Code, is amended—

18                (1) in paragraph (1) by striking “\$7,500” and  
19                inserting “\$15,000”;

20                (2) in paragraph (2) by striking “\$1,200” and  
21                inserting “\$2,400”;

22                (3) in paragraph (3)—

23                        (A) by striking “\$200” and inserting  
24                        “\$400”; and

1 (B) by striking “\$4,000” and inserting  
2 “\$8,000”;

3 (4) in paragraph (4) by striking “\$500” and in-  
4 serting “\$1,000”;

5 (5) in paragraph (5)—

6 (A) by striking “\$400” and inserting  
7 “\$800”; and

8 (B) by striking “\$3,750” and inserting  
9 “\$7,500”;

10 (6) in paragraph (6) by striking “\$750” and in-  
11 serting “\$1,500”;

12 (7) in paragraph (8) by striking “\$4,000” and  
13 inserting “\$8,000”; and

14 (8) in paragraph (11)(D) by striking “\$7,500”  
15 and inserting “\$15,000”.

16 (e) APPOINTMENT OF EXAMINER IN CERTAIN CIR-  
17 CUMSTANCES.—Section 1104(b)(2) of title 11, United  
18 States Code, is amended by striking “\$5,000,000” and in-  
19 serting “\$10,000,000”.

20 **SEC. 109. PREMERGER NOTIFICATION.**

21 Sections 363(b)(2) (A) and (B) of title 11, United  
22 States Code, are amended to read as follows:

23 “(A) notwithstanding subsection (a) of  
24 that section, the notification required to be

1 given by the debtor shall be given by the trust-  
2 ee; and

3 “(B) notwithstanding subsection (b) of  
4 that section, the required waiting period shall  
5 end on the 15th day after the date of receipt  
6 of the notification, unless the waiting period is  
7 extended—

8 “(i) pursuant to subsection (e)(2) (as  
9 it applies to a cash tender offer) or (g)(2)  
10 of that section; or

11 “(ii) by the court, after notice and a  
12 hearing.”.

13 **SEC. 110. ALLOWANCE OF CREDITOR COMMITTEE EX-**  
14 **PENSES.**

15 Section 503(b) of title 11, United States Code, is  
16 amended—

17 (1) by striking “and” at the end of paragraph  
18 (5);

19 (2) by striking the period at the end of para-  
20 graph (6) and inserting “; and”; and

21 (3) by adding at the end the following new  
22 paragraph:

23 “(7) the actual, necessary expenses incurred by  
24 a member of a committee appointed under section  
25 1102 in the performance of the duties of the com-

1        mittee (including fees of an attorney or accountant  
2        for professional services rendered for the member to  
3        the extent allowable under paragraph (4)), other  
4        than claims for compensation for services rendered  
5        as a member of the committee.”.

6    **SEC. 111. JUDICIAL CONFERENCE REPORT.**

7        Not later than 1 year after the date of enactment  
8        of this Act, the Judicial Conference of the United States  
9        shall produce and submit to the appropriate committees  
10       of Congress a report containing a description of—

11            (1) the efforts of the Federal judiciary to auto-  
12            mate and computerize the Federal bankruptcy  
13            courts;

14            (2) the types of information that are currently  
15            available to Congress and the public regarding the  
16            number, size, and types of bankruptcy cases filed in  
17            the Federal courts;

18            (3) the types of additional information that the  
19            Federal judiciary believes are necessary and desir-  
20            able to enhance its ability to manage the affairs of  
21            the bankruptcy system; and

22            (4) the projected timetable for being able to  
23            supply those additional types of information to Con-  
24            gress and the public in the future.

1 **SEC. 112. SERVICE OF PROCESS IN BANKRUPTCY PROCEED-**  
2 **INGS ON AN INSURED DEPOSITORY INSTITU-**  
3 **TION.**

4 Rule 7004 of Bankruptcy Rules is amended—

5 (1) in subsection (b) by striking “In addition”  
6 and inserting “Except as provided in subdivision (h),  
7 in addition”; and

8 (2) by adding at the end the following new sub-  
9 division:

10 “(h) SERVICE OF PROCESS ON AN INSURED DEPOSI-  
11 TORY INSTITUTION.—Notwithstanding any other provi-  
12 sion of this rule or any other rule or law, service on an  
13 insured depository institution (as defined in section 3 of  
14 the Federal Deposit Insurance Act (12 U.S.C. 1813))  
15 shall be made by certified mail addressed to an officer of  
16 the institution unless—

17 “(1) the institution has appeared by its attor-  
18 ney, in which case the attorney shall be served by  
19 first class mail;

20 “(2) the court orders otherwise after service  
21 upon the institution by certified mail of notice of an  
22 application to permit service on the institution by  
23 first class mail sent to an officer of the institution  
24 designated by the institution; or

1           “(3) the institution has waived in writing its  
2           entitlement to service by certified mail by designat-  
3           ing an officer to receive service.”.

4   **SEC. 113. MEETINGS OF CREDITORS AND EQUITY SECURITY**  
5           **HOLDERS.**

6           Section 341 of title 11, United States Code, is  
7           amended by adding at the end the following new sub-  
8           section:

9           “(d) Prior to the conclusion of the meeting of credi-  
10          tors or equity security holders, the United States trustee  
11          shall orally examine the debtor under oath and make rec-  
12          ommendations on a preserved record regarding the debt-  
13          or’s knowledge of—

14               “(1) the potential consequences of seeking a  
15               discharge in bankruptcy, including the effects on  
16               credit history;

17               “(2) the debtor’s ability to file a petition under  
18               a different chapter of this title;

19               “(3) the effect of receiving a discharge of debts  
20               under this title;

21               “(4) the effect of reaffirming a debt, including  
22               the debtor’s knowledge of the provisions of section  
23               524(d);

24               “(5) the debtor’s duties under section 521; and

1 “(6) the potential penalties and fines for com-  
2 mitting fraud or other abuses of this title.”.

3 **SEC. 114. TAX ASSESSMENT.**

4 Section 362(b)(9) of title 11, United States Code, is  
5 amended to read as follows:

6 “(9) under subsection (a), of—

7 “(A) an audit by a governmental unit to  
8 determine tax liability;

9 “(B) the issuance to the debtor by a gov-  
10 ernmental unit of a notice of tax deficiency;

11 “(C) a demand for tax returns; an assess-  
12 ment of an uncontested or agreed upon tax li-  
13 ability; or

14 “(D) the making of an assessment for any  
15 tax and issuance of a notice and demand for  
16 payment of such an assessment (but any tax  
17 lien that would otherwise attach to property of  
18 the estate by reason of such an assessment  
19 shall not take effect until the property is no  
20 longer property of the estate).”.

21 **SEC. 115. ADDITIONAL TRUSTEE COMPENSATION.**

22 Section 330(b) of title 11, United States Code, is  
23 amended—

24 (1) by inserting “(1)” after “(b)”; and

1           (2) by adding at the end thereof the following  
2       new paragraph:

3       “(2) The Judicial Conference of the United States  
4 shall prescribe additional fees of the same kind as pre-  
5 scribed under section 1914(b) of title 28, to pay \$15 to  
6 the trustee serving in such case after such trustee’s serv-  
7 ices are rendered. Such \$15 shall be paid in addition to  
8 the amount paid under paragraph (1).”.

9   **SEC. 116. EXTENSION TO CERTAIN JUDICIAL OFFICIALS OF**  
10                   **LIFE INSURANCE RULES CURRENTLY APPLI-**  
11                   **CABLE TO FEDERAL JUDGES.**

12       (a) ELIGIBILITY.—Section 8701(a) of title 5, United  
13 States Code, is amended—

14           (1) in paragraph (9) by striking “and” after  
15       the semicolon;

16           (2) in paragraph (10) by adding “and” after  
17       the semicolon; and

18           (3) by inserting after paragraph (10) and pre-  
19       ceding the matter before subparagraph (A) the fol-  
20       lowing new paragraph:

21           “(11) a judicial official (as defined in section  
22       376(a)(1) of title 28), including—

23           “(i) a judge of the United States Court of  
24       Federal Claims—



1 “(I) who is in regular active service,  
2 or

3 “(II) who is retired from regular ac-  
4 tive service under section 178 of title 28;

5 “(ii) a judge of the District Court of  
6 Guam, the District Court of the Northern Mari-  
7 ana Islands, or the District Court of the Virgin  
8 Islands—

9 “(I) who is in regular active service,  
10 or

11 “(II) who is retired from regular ac-  
12 tive service under section 373 of title 28;

13 and

14 “(iii) a bankruptcy judge or a magistrate  
15 judge—

16 “(I) who is in regular active service,  
17 or

18 “(II) who retired after attaining age  
19 65 from regular active service under chap-  
20 ter 83 or 84 of this title, section 377 of  
21 title 28, or section 2(c) of the Retirement  
22 and Survivors’ Annuities for Bankruptcy  
23 Judges and Magistrates Act of 1988 (28  
24 U.S.C. 377 note; Public Law 100–659);”.

25 (b) CONTINUATION OF COVERAGE.—

1           (1) TERMINATION; OPTIONAL INSURANCE.—(A)  
2       Sections 8706(a) and 8714b(c)(1) of title 5, United  
3       States Code, are each amended in the second sen-  
4       tence by inserting “and judicial officials specifically  
5       included under section 8701(a)(11)” after “section  
6       8701(a)(5) (ii) and (iii)”.

7           (B) Sections 8714a(c)(1) and 8714c(c)(1) of  
8       title 5, United States Code, are each amended by  
9       adding after the first sentence “Justices and judges  
10      described under section 8701(a)(5) (ii) and (iii) and  
11      judicial officials specifically included under section  
12      8701(a)(11) of this chapter are deemed to continue  
13      in active employment for purposes of this chapter.”.

14          (2) APPLICATION OF AMENDMENTS.—The  
15      amendments made by paragraph (1) shall apply to  
16      a judicial officer described in section 8701(a)(11) of  
17      title 5, United States Code (as amended by this sec-  
18      tion) who—

19           (A) is retired under chapter 83 or 84 of  
20      title 5, United States Code, section 178, 373, or  
21      377 of title 28, United States Code, or section  
22      2(c) of the Retirement and Survivors’ Annuities  
23      for Bankruptcy Judges and Magistrates Act of  
24      1988 (28 U.S.C. 377 note); and

25           (B) retires on or after August 1, 1987.

1 (c) TECHNICAL AMENDMENTS.—

2 (1) SECTION 8714A.—Section 8714a(c) of title  
3 5, United States Code, is amended by striking para-  
4 graph (3).

5 (2) SECTION 8714B.—Section 8714b(c)(1) is  
6 amended by striking the third sentence.

7 **SEC. 117. SETTLEMENT OF CLAIMS AND DEMANDS FOR**  
8 **PAYMENT.**

9 Section 105 of title 11, United States Code, is  
10 amended by adding at the end the following new sub-  
11 section:

12 “(d) A court may issue an injunction that requires  
13 claims and demands to be presented for payment solely  
14 to a trust or other vehicle that is established for the pur-  
15 pose of settling such claims and demands and is approved  
16 by the court and entered into pursuant to an order approv-  
17 ing a plan of reorganization.”.

18 **SEC. 118. RECOMMENDATIONS OF THE JUDICIAL CON-**  
19 **FERENCE FOR THE APPOINTMENT OF BANK-**  
20 **RUPTCY JUDGES.**

21 Section 152(b) of title 28, United States Code, is  
22 amended by adding at the end the following new para-  
23 graph:

24 “(4)(A) If, as a result of a review of judicial districts  
25 under paragraph (3), the Judicial Conference determines

1 that there is a need for a number (including a fractional  
2 number) of additional bankruptcy judges for any judicial  
3 district, but the Judicial Conference determines to submit  
4 to Congress a recommendation that the appointment of  
5 a lesser number of bankruptcy judges be authorized for  
6 that district, the Judicial Conference shall submit with the  
7 recommendation a statement detailing—

8           “(i) the difference between the number of addi-  
9           tional bankruptcy judges that has been determined  
10          to be needed and the number recommended to be  
11          authorized; and

12          “(ii) the methods by which those numbers were  
13          determined.

14          “(B) If the Judicial Conference has submitted to  
15 Congress a recommendation that a lesser number of addi-  
16 tional bankruptcy judges be authorized to be appointed  
17 than a review of judicial districts shows is needed for a  
18 judicial district, the Judicial Conference shall submit a  
19 subsequent recommendation that satisfies the continuing  
20 need for additional bankruptcy judges for that judicial dis-  
21 trict unless—

22           “(i) the Congress, without having received such  
23          a recommendation, authorizes the requisite number  
24          of additional bankruptcy judges to be appointed for  
25          that district; or

1 “(ii) a subsequent review of judicial districts  
 2 shows that that number of additional bankruptcy  
 3 judges is no longer needed for that district.”.

## 4 **TITLE II—COMMERCIAL ISSUES** 5 **IN BANKRUPTCY**

### 6 **SEC. 201. SMALL BUSINESSES.**

7 (a) DEFINITION.—Section 101 of title 11, United  
 8 States Code, as amended by section 501, is amended by  
 9 inserting in its proper alphabetical position the following  
 10 new definition:

11 “ ‘small business’ means a person engaged in  
 12 commercial or business activities (but does not in-  
 13 clude a person whose primary activity is the business  
 14 of owning or operating real property and activities  
 15 incidental thereto) whose aggregate liquidated se-  
 16 cured and unsecured debts as of the date of the peti-  
 17 tion do not exceed \$2,500,000.”.

18 (b) CREDITORS’ COMMITTEES.—Section 1102(a) of  
 19 title 11, United States Code, is amended—

20 (1) in paragraph (1) by striking “As” and in-  
 21 serting “Except as provided in paragraph (3), as”;  
 22 and

23 (2) by adding at the end the following new  
 24 paragraph:

1       “(3) On request of a party in interest in a case in  
2 which the debtor is a small business, the court may order  
3 that a committee of creditors not be appointed.”.

4       (c) CONVERSION OR DISMISSAL.—Section 1112(b) of  
5 title 11, United States Code, is amended by inserting “or  
6 bankruptcy administrator” after “United States trustee”.

7       (d) WHO MAY FILE A PLAN.—Section 1121 of title  
8 11, United States Code, is amended by adding at the end  
9 the following new subsection:

10       “(d) In a case in which the debtor is a small busi-  
11 ness—

12               “(A) only the debtor may file a plan until after  
13 90 days after the date of the order for relief under  
14 this chapter;

15               “(B) all plans for relief shall be filed within 150  
16 days after the date of the order for relief; and

17               “(C) on request of a party in interest made  
18 within the respective periods specified in subpara-  
19 graphs (A) and (B) and after notice and a hearing,  
20 the court may—

21                       “(i) reduce the 90-day period or the 150-  
22 day period specified in subparagraph (A) or (B)  
23 for cause; and

24                       “(ii) increase the 90-day period specified in  
25 subparagraph (A) if the debtor shows that the

1           need for an increase is caused by circumstances  
2           for which the debtor should not be held ac-  
3           countable.”.

4           (e) POSTPETITION DISCLOSURE.—Section 1125 of  
5 title 11, United States Code, is amended by adding at the  
6 end the following new subsection:

7           “(f) Notwithstanding subsection (b), in a case in  
8 which the debtor is a small business—

9           “(1) the court may conditionally approve a dis-  
10          closure statement subject to final approval after no-  
11          tice and a hearing;

12          “(2) acceptances and rejections of a plan may  
13          be solicited based on a conditionally approved disclo-  
14          sure statement so long as the debtor provides ade-  
15          quate information to each holder of a claim or inter-  
16          est that is solicited, but a conditionally approved dis-  
17          closure statement shall be mailed at least 10 days  
18          prior to the date of the hearing on confirmation of  
19          the plan; and

20          “(3) a hearing on the disclosure statement may  
21          be combined with a hearing on confirmation of a  
22          plan.”.

1 **SEC. 202. SINGLE ASSET REAL ESTATE.**

2 (a) DEFINITION.—Section 101 of title 11, United  
3 States Code, is amended by inserting in its proper alpha-  
4 betical position the following new definition:

5 “ ‘single asset real estate’ means real property  
6 constituting a single property or project, other than  
7 residential real property with fewer than 4 residen-  
8 tial units, which generates substantially all of the  
9 gross income of a debtor and on which no substan-  
10 tial business is being conducted by a debtor other  
11 than the business of operating the real property and  
12 activities incidental thereto.”.

13 (b) AUTOMATIC STAY.—Section 362 of title 11, Unit-  
14 ed States Code, is amended—

15 (1) in subsection (d)—

16 (A) in paragraph (1) by striking “or” at  
17 the end;

18 (B) in paragraph (2) by striking the period  
19 at the end and inserting “; or”; and

20 (C) by adding at the end the following new  
21 paragraph:

22 “(3) with respect to a stay of an act against  
23 single asset real estate under subsection (a), by a  
24 creditor whose claim is secured by an interest in  
25 such real estate, unless, not later than the date that  
26 is 90 days after the entry of the order for relief (or



1       such later date as the court may determine for cause  
2       by order entered within that 90-day period)—

3               “(A) the debtor has filed a plan of reorga-  
4       nization that has a reasonable possibility of  
5       being confirmed within a reasonable time; or

6               “(B) the debtor has commenced monthly  
7       payments to each creditor whose claim is se-  
8       cured by such real estate, which payments are  
9       in an amount equal to interest at a current fair  
10      market rate on the value of the creditor’s inter-  
11      est in the real estate.”; and

12      (2) by adding at the end the following new sub-  
13      section:

14      “(i)(1) Upon request of a creditor whose claim is se-  
15      cured by an interest in single asset real estate, if the inter-  
16      est has more than de minimis value, the court shall issue  
17      an order granting limited relief from the stay provided  
18      under subsection (a) to permit the creditor to continue a  
19      foreclosure proceeding commenced before the commence-  
20      ment of the case up to, but not including, the point of  
21      sale.

22      “(2) An order under paragraph (1) shall not issue  
23      before the date that is 30 days after the date of entry  
24      of the order for relief, but thereafter shall issue promptly  
25      after such a request.

1       “(3) A hearing shall not be required for the granting  
 2 of relief under paragraph (1) unless the debtor files an  
 3 objection to the request and shows the court extraordinary  
 4 circumstances requiring such a hearing.”.

5   **SEC. 203. AIRCRAFT EQUIPMENT, VESSELS, AND ROLLING**  
 6                   **STOCK EQUIPMENT.**

7       (a) AMENDMENT OF SECTION 1110.—Section 1110  
 8 of title 11, United States Code, is amended to read as  
 9 follows:

10   **“§ 1110. Aircraft equipment and vessels**

11       “(a)(1) The right of a secured party with a security  
 12 interest in equipment described in paragraph (2) or of a  
 13 lessor or conditional vendor of such equipment to take pos-  
 14 session of such equipment in compliance with a security  
 15 agreement, lease, or conditional sale contract is not af-  
 16 fected by section 362, 363, or 1129 or by any power of  
 17 the court to enjoin the taking of possession unless—

18           “(A) before the date that is 60 days after the  
 19 date of the order for relief under this chapter, the  
 20 trustee, subject to the court’s approval, agrees to  
 21 perform all obligations of the debtor that become  
 22 due on or after the date of the order under such se-  
 23 curity agreement, lease, or conditional sale contract;  
 24 and

1           “(B) any default, other than a default of a kind  
2 specified in section 365(b)(2), under such security  
3 agreement, lease, or conditional sale contract—

4           “(i) that occurs before the date of the  
5 order is cured before the expiration of such 60-  
6 day period; and

7           “(ii) that occurs after the date of the order  
8 is cured before the later of—

9           “(I) the date that is 30 days after the  
10 date of the default; or

11           “(II) the expiration of such 60-day  
12 period.

13       “(2) Equipment is described in this paragraph if it  
14 is—

15           “(A) an aircraft, aircraft engine, propeller, ap-  
16 pliance, or spare part (as defined in section 101 of  
17 the Federal Aviation Act of 1958 (49 U.S.C. App.  
18 1301)) that is subject to a security interest granted  
19 by, leased to, or conditionally sold to a debtor that  
20 is an air carrier (as defined in that section, except  
21 that for the purposes of this section the term also  
22 includes an air carrier in intrastate commerce); or

23           “(B) a documented vessel (as defined in section  
24 30101(1) of title 46, United States Code) that is  
25 subject to a security interest granted by, leased to,

1 or conditionally sold to a debtor that is a water car-  
2 rier that holds a certificate of public convenience  
3 and necessity or permit issued by the Interstate  
4 Commerce Commission.

5 “(3) Paragraph (1) applies to a secured party, lessor,  
6 or conditional vendor acting in its own behalf or acting  
7 as trustee or otherwise in behalf of another party.

8 “(b) The trustee and the secured party, lessor, or  
9 conditional vendor whose right to take possession is pro-  
10 tected under subsection (a) may agree, subject to the  
11 court’s approval, to extend the 60-day period specified in  
12 subsection (a)(1).

13 “(c) If the trustee makes an agreement of the kind  
14 described in subsection (a)(1)(A) with respect to a security  
15 agreement, lease, or conditional sale contract, any costs  
16 and expenses incurred by the secured party, lessor, or con-  
17 ditional vendor to remedy the failure of the trustee to per-  
18 form the obligations of the estate to maintain or return  
19 equipment in accordance with the security agreement,  
20 lease, or conditional sale contract constitute administra-  
21 tive expenses under section 503(b)(1)(A).

22 “(d) With respect to equipment first placed in service  
23 on or prior to the date of enactment of this subsection,  
24 for purposes of this section—

1           “(1) the term ‘lease’ includes any written agree-  
2           ment with respect to which the lessor and the debt-  
3           or, as lessee, have expressed in the agreement or in  
4           a substantially contemporaneous writing that the  
5           agreement is to be treated as a lease for Federal in-  
6           come tax purposes; and

7           “(2) the term ‘security interest’ means a pur-  
8           chase-money equipment security interest.”.

9           (b) AMENDMENT OF SECTION 1168.—Section 1168  
10          of title 11, United States Code, is amended to read as  
11          follows:

12       **“§ 1168. Rolling stock equipment**

13           “(a)(1) The right of a secured party with a security  
14          interest in or of a lessor or conditional vendor of equip-  
15          ment described in paragraph (2) to take possession of such  
16          equipment in compliance with an equipment security  
17          agreement, lease, or conditional sale contract is not af-  
18          fected by section 362, 363, or 1129 or by any power of  
19          the court to enjoin the taking of possession, unless—

20           “(A) before the date that is 60 days after the  
21          date of commencement of a case under this chapter,  
22          the trustee, subject to the court’s approval, agrees to  
23          perform all obligations of the debtor that become  
24          due on or after the date of commencement of the

1 case under such security agreement, lease, or condi-  
2 tional sale contract; and

3 “(B) any default, other than a default of a kind  
4 described in section 365(b)(2), under such security  
5 agreement, lease, or conditional sale contract—

6 “(i) that occurs before the date of com-  
7 mencement of the case and is an event of de-  
8 fault therewith is cured before the expiration of  
9 such 60-day period; and

10 “(ii) that occurs or becomes an event of  
11 default after the date of commencement of the  
12 case is cured before the later of—

13 “(I) the date that is 30 days after the  
14 date of the default or event of default; or

15 “(II) the expiration of such 60-day  
16 period.

17 “(2) Equipment is described in this paragraph if it  
18 is rolling stock equipment or accessories used on such  
19 equipment, including superstructures and racks, that is  
20 subject to a security interest granted by, leased to, or con-  
21 ditionally sold to the debtor.

22 “(3) Paragraph (1) applies to a secured party, lessor,  
23 or conditional vendor acting in its own behalf or acting  
24 as trustee or otherwise in behalf of another party.

1       “(b) The trustee and the secured party, lessor, or  
2 conditional vendor whose right to take possession is pro-  
3 tected under subsection (a) may agree, subject to the  
4 court’s approval, to extend the 60-day period specified in  
5 subsection (a)(1).

6       “(c) If the trustee makes an agreement of the kind  
7 described in subsection (a)(1)(A) with respect to a security  
8 agreement, lease, or conditional sale contract, any costs  
9 and expenses incurred by the secured party, lessor, or con-  
10 ditional vendor to remedy the failure of the trustee to per-  
11 form the obligations of the estate to maintain or return  
12 equipment in accordance with the security agreement,  
13 lease, or conditional sale contract constitute administra-  
14 tive expenses under section 503(b)(1)(A).

15       “(d) With respect to equipment first placed in service  
16 on or prior to the date of enactment of this subsection,  
17 for purposes of this section—

18               “(1) the term ‘lease’ includes any written agree-  
19 ment with respect to which the lessor and the debt-  
20 or, as lessee, have expressed in the agreement or in  
21 a substantially contemporaneous writing that the  
22 agreement is to be treated as a lease for Federal in-  
23 come tax purposes; and

24               “(2) the term ‘security interest’ means a pur-  
25 chase-money equipment security interest.”.

1 (c) APPLICATION OF AMENDMENTS.—

2 (1) IN GENERAL.—The amendment of sections  
3 1110 and 1168 of title 11, United States Code,  
4 made by subsections (a) and (b) shall not apply to  
5 cases commenced under title 11, United States  
6 Code, prior to the date of enactment of this Act.

7 (2) PLACEMENT IN SERVICE.—The amendment  
8 of section 1168(a) of title 11, United States Code,  
9 made by subsection (b) shall take effect with respect  
10 to equipment that is first placed in service after the  
11 date of enactment of this Act, including rolling stock  
12 equipment that is substantially rebuilt after that  
13 date and accessories used on such equipment.

14 **SEC. 204. UNEXPIRED LEASES OF PERSONAL PROPERTY IN**  
15 **CHAPTER 11 CASES.**

16 Section 365(d)(3) of title 11, United States Code, is  
17 amended in the first sentence by inserting after “real  
18 property” the following: “and, in a case under chapter 11,  
19 under an unexpired lease of personal property”.



1 **SEC. 205. PROTECTION OF ASSIGNEES OF EXECUTORY CON-**  
2 **TRACTS AND UNEXPIRED LEASES APPROVED**  
3 **BY COURT ORDER IN CASES REVERSED ON**  
4 **APPEAL.**

5 Section 365 of title 11, United States Code, is  
6 amended by adding at the end the following new sub-  
7 section:

8 “(p)(1) Except as provided in paragraph (2), the re-  
9 versal or modification on appeal of an authorization under  
10 this section of an assignment of an executory contract or  
11 unexpired lease does not affect the validity of the assign-  
12 ment to an entity that obtained the assignment in good  
13 faith, whether or not the entity knew of the pendency of  
14 the appeal, unless the authorization and the assignment  
15 were stayed pending appeal.

16 “(2) This subsection does not apply to an executory  
17 contract that is related to, or to an unexpired lease of real  
18 property in, a shopping center.”.

19 **SEC. 206. PROTECTION OF SECURITY INTEREST IN POST-**  
20 **PETITION RENTS.**

21 POSTPETITION EFFECT OF SECURITY INTEREST.—  
22 Section 552(b) of title 11, United States Code, is amend-  
23 ed—

24 (1) by inserting “(1)” after “(b)”;

25 (2) by striking “rents,” each place it appears;

26 and

1           (3) by adding at the end the following new  
2 paragraph:

3           “(2)(A) Except as provided in sections 363, 506(c),  
4 522, 544, 545, 547, and 548, if—

5           “(i) the debtor and an entity entered into a se-  
6 curity agreement that was duly recorded in the pub-  
7 lic records before the commencement of the case;  
8 and

9           “(ii) the security interest created by the secu-  
10 rity agreement extends to—

11           “(I) property of the debtor acquired before  
12 the commencement of the case; and

13           “(II)(aa) to amounts paid as rents of such  
14 property; or

15           “(bb) to amounts paid for the use or occu-  
16 pancy of such property (including fees, charges,  
17 accounts, or other payments for the use or oc-  
18 cupancy of rooms and other public facilities in  
19 a property such as a hotel, motel, or other lodg-  
20 ing),

21 the security interest extends to such amounts paid to the  
22 estate as rents or as fees, charges, accounts, or other pay-  
23 ments after the commencement of the case to the extent  
24 provided in the security agreement, whether or not the se-  
25 curity interest in such rents or such fees, charges, ac-

1 counts, or other payments is perfected under applicable  
2 nonbankruptcy law, except to the extent that the court,  
3 after notice and a hearing and based on the equities of  
4 the case, orders otherwise.

5 “(B) If a security interest extends under subpara-  
6 graph (A) to rents acquired by the estate after the com-  
7 mencement of the case, the security interest in such rents  
8 shall be deemed to be perfected for the purpose of section  
9 544(a).”.

10 (b) USE SALE, OR LEASE OF PROPERTY.—Section  
11 363(a) of title 11, United States Code, is amended by in-  
12 serting: “and the fees, charges, accounts or other pay-  
13 ments for the use or occupancy of rooms and other public  
14 facilities in hotels, motels, or other lodging properties”  
15 after “property”.

16 **SEC. 207. ANTI-ALIENATION.**

17 (a) AUTOMATIC STAY.—Section 362(b) of title 11,  
18 United States Code, as amended by section 501(a), is  
19 amended—

20 (1) by striking “or” at the end of paragraph  
21 (16);

22 (2) by striking the period at the end of para-  
23 graph (17) and inserting “; or”; and

24 (3) by adding at the end the following new  
25 paragraph:

1           “(18) under subsection (a), of withholding of  
2           income from a debtor’s wages and collection of  
3           amounts withheld, pursuant to statute or the debt-  
4           or’s agreement authorizing such withholding and col-  
5           lection for the benefit of a qualified employer plan  
6           (within the meaning of section 72(p)(4) of the Inter-  
7           nal Revenue Code of 1986), to the extent that the  
8           amounts withheld and collected are used solely for  
9           payments relating to a loan from the plan secured  
10          by the debtor’s nonforfeitable accrued benefit under  
11          the plan.”.

12          (b) EXCEPTIONS TO DISCHARGE.—Section 523(a) of  
13          title 11, United States Code, is amended—

14                (1) by striking “or” at the end of paragraph  
15                (11);

16                (2) by striking the period at the end of para-  
17                graph (12) and inserting “; or”; and

18                (3) by adding at the end the following new  
19                paragraph:

20                “(13) owed to a qualified employer plan (within  
21                the meaning of section 72(p)(4) of the Internal Rev-  
22                enue Code of 1986) pursuant to a loan from the  
23                plan secured by the debtor’s nonforfeitable accrued  
24                benefit under the plan.”.

1 (c) PROPERTY OF THE ESTATE.—Section 541(b) of  
2 title 11, United States Code, as amended by section  
3 501(d)(12), is amended in paragraph (1)—

4 (1) by striking “or” at the end of subparagraph  
5 (C);

6 (2) by striking the period at the end of sub-  
7 paragraph (D) and inserting “; or”; and

8 (3) by adding at the end the following new sub-  
9 paragraph:

10 “(E) any nontransferable interest of the debtor  
11 in a qualified employer plan (within the meaning of  
12 section 72(p)(4) of the Internal Revenue Code of  
13 1986) to the extent not otherwise excluded from the  
14 debtor’s estate pursuant to subsection (c)(2).”.

15 (d) PLAN CONTENTS.—Section 1322 of title 11,  
16 United States Code, is amended by adding at the end the  
17 following new subsection:

18 “(d) The plan may not materially alter the terms of  
19 a loan described in section 362(b)(18).”.

20 (e) PLAN CONFIRMATION.—Section 1325 of title 11,  
21 United States Code, is amended—

22 (1) in subsection (b)(2) by striking “debtor  
23 and” and inserting “debtor (not including income  
24 that is withheld from the debtor’s wages for the pur-  
25 poses stated in section 362(b)(18)) and”; and

1           (2) in subsection (c) by striking “income to”  
2           and inserting “income (except income that is with-  
3           held from a debtor’s wages for the purposes stated  
4           in section 362(b)(18) after confirmation of a plan)  
5           to”.

6 **SEC. 208. EXEMPTION.**

7           Section 109(b)(2) of title 11, United States Code, is  
8           amended by inserting after “homestead association,” the  
9           following: “a small business investment company licensed  
10          by the Small Business Administration under section 301  
11          (c) or (d) of the Small Business Investment Act of 1958  
12          (15 U.S.C. 681 (c) and (d)),”.

13 **SEC. 209. INDENTURE TRUSTEE COMPENSATION.**

14          Section 503(b) of title 11, United States Code, is  
15          amended—

16               (1) in paragraph (3)—

17                       (A) by redesignating subparagraphs (D)  
18                       and (E) as subparagraphs (E) and (F), respec-  
19                       tively;

20                       (B) by inserting after subparagraph (C)  
21                       the following new subparagraph;

22                               “(D) an indenture trustee;”; and

23                       (C) in subparagraph (E), as redesignated  
24                       by subparagraph (A), by striking “an indenture  
25                       trustee;”; and

1           (2) in paragraph (5) by striking “for services  
2           rendered by an indenture trustee in making a sub-  
3           stantial contribution” and inserting “for reasonable  
4           and necessary services rendered by an indenture  
5           trustee”.

6 **SEC. 210. PAYMENT OF TAXES WITH BORROWED FUNDS.**

7           Section 523(a) of title 11, United States Code, as  
8           amended by section 207(b), is amended—

9           (1) by striking “or” at the end of paragraph  
10          (12);

11          (2) by adding “or” at the end of paragraph  
12          (13); and

13          (3) by adding at the end the following new  
14          paragraph:

15               “(14) incurred to pay a tax or customs duty  
16               that would be nondischargeable pursuant to para-  
17               graph (1).”.

18 **SEC. 211. RETURN OF GOODS.**

19          (a) **LIMITATION ON AVOIDING POWERS.**—Section  
20          546 of title 11, United States Code, is amended by adding  
21          at the end the following new subsection:

22               “(h) Notwithstanding the rights and powers of a  
23               trustee under sections 544(a), 545, 547, 549, and 553,  
24               if the court determines, after notice and a hearing, that  
25               a return is in the best interests of the estate, the debtor,

1 with the consent of a creditor, may return goods shipped  
2 to the debtor by the creditor before the commencement  
3 of the case, and the creditor may offset the purchase price  
4 of such goods against any claim of the creditor against  
5 the debtor that arose before the commencement of the  
6 case.”.

7 (b) SETOFF.—Section 553(b)(1) is amended by in-  
8 serting “546(h),” after “365(h)(2),”.

9 **SEC. 212. EXCEPTION TO DISCHARGE.**

10 Section 523(a)(2)(C) of title 11, United States Code,  
11 is amended by striking “forty” and inserting “60”.

12 **SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.**

13 Section 541(b) of title 11, United States Code, as  
14 amended by section 207(c), is amended in paragraph  
15 (1)—

16 (1) by striking “or” at the end of subparagraph  
17 (D);

18 (2) by striking the period at the end of sub-  
19 paragraph (E) and inserting “; or”; and

20 (3) by adding at the end the following new sub-  
21 paragraph:

22 “(F) any interest in cash or cash equivalents  
23 that constitute proceeds of a sale by the debtor of  
24 a money order that is made—



1           “(i) on or after the date that is 14 days  
2           prior to the date on which the petition is filed;  
3           and

4           “(ii) under an agreement with a money  
5           order issuer that prohibits the commingling of  
6           such proceeds with property of the debtor (not-  
7           withstanding that, contrary to the agreement,  
8           the proceeds may have been commingled with  
9           property of the debtor),  
10          unless the money order issuer had not taken action,  
11          prior to the filing of the petition, to require compli-  
12          ance with the prohibition.”.

13 **SEC. 214. LIMITATION ON LIABILITY OF NONINSIDER**  
14 **TRANSFeree FOR AVOIDED TRANSFER.**

15          Section 550 of title 11, United States Code, is  
16 amended—

17           (1) by redesignating subsections (b), (c), (d),  
18           and (e) as subsections (c), (d), (e), and (f), respec-  
19           tively; and

20           (2) by inserting after subsection (a) the follow-  
21           ing new subsection:

22           “(b) The trustee may recover under subsection (a)  
23           a transfer avoided under section 547(b) from a first trans-  
24           feree or an immediate or mediate transferee of a first  
25           transferee only to the extent that—

1           “(1) all the elements of section 547(b) are sat-  
2           isfied as to the first transferee; and

3           “(2) the exceptions in section 547(c) do not  
4           protect the first transferee.”.

5   **SEC. 215. PERFECTION OF PURCHASE-MONEY SECURITY IN-**  
6                           **TEREST.**

7           Section 547 of title 11, United States Code, is  
8           amended in subsection (c)(3)(B) and subsection (e)(2) by  
9           striking “10” and inserting “20”.

10   **SEC. 216. AIRPORT GATE LEASES.**

11           Section 365(d) of title 11, United States Code, is  
12           amended by adding at the end the following new para-  
13           graph:

14           “(5)(A) Notwithstanding paragraphs (1), (2), and  
15           (4), and subject to subparagraph (B) of this paragraph,  
16           if the trustee in a case under any chapter of this title does  
17           not assume or reject an unexpired lease or executory con-  
18           tract with an airport operator under which the debtor has  
19           a right to the use or possession of an airport terminal,  
20           aircraft gate, or related facility within 60 days after the  
21           date of the order for relief, or within such additional time  
22           (not to exceed 120 additional days) as the court sets dur-  
23           ing such 60-day period, such lease or executory contract  
24           is deemed rejected, and the trustee shall immediately sur-

1 render the airport terminal, gate, or related facility to the  
2 airport operator.

3 “(B)(i) The court may enter an order extending be-  
4 yond 180 days after the date of the order for relief the  
5 time for assumption or rejection of an unexpired lease or  
6 executory contract described in subparagraph (A) only  
7 after finding that such an extension of time does not cause  
8 substantial harm to the airport operator or to airline pas-  
9 sengers.

10 “(ii) In making the determination of substantial  
11 harm, the court shall consider, among other relevant fac-  
12 tors—

13 “(I) the level of use of airport terminals, gates,  
14 or related facilities subject to the unexpired lease or  
15 executory contract;

16 “(II) the existence of competing demands for  
17 the use of the airport terminals, gates, or related fa-  
18 cilities;

19 “(III) the size and complexity of the case; and

20 “(IV) air carrier competition at the airport.

21 “(iii) The burden of proof for establishing cause for  
22 an extension of time under this subparagraph shall be on  
23 the trustee.

24 “(iv) An order entered under this subparagraph shall  
25 be without prejudice to the right of a party in interest

1 to request, at any time, a shortening or termination of  
2 the extension of time granted under this subparagraph.”.

3 **SEC. 217. TRUSTEE DUTIES.**

4 Section 586(a)(3)(A) of title 28, United States Code,  
5 is amended to read as follows:

6 “(A)(i) reviewing, in accordance with pro-  
7 cedural and substantive guidelines adopted by  
8 the Executive Office of the United States  
9 Trustee (which guidelines shall be applied uni-  
10 formly by the United States trustee except  
11 when circumstances warrant different treat-  
12 ment), applications filed for compensation and  
13 reimbursement under section 330 of title 11;  
14 and

15 “(ii) filing with the court comments with  
16 respect to each such an application and, if the  
17 United States Trustee considers it to be appro-  
18 priate, objections to such application.”.

19 **SEC. 218. PAYMENTS.**

20 Section 1326(a)(2) of title 11, United States Code,  
21 is amended in the second sentence by striking the period  
22 and inserting “as soon as practicable.”.

1 **SEC. 219. CONTINUED PERFECTION.**

2 (a) AUTOMATIC STAY.—Section 362(b)(3) of title 11,  
3 United States Code, is amended by inserting “, or to  
4 maintain or continue the perfection of,” after “to perfect”.

5 (b) LIMITATIONS ON AVOIDING POWERS.—Section  
6 546(b) of title 11, United States Code, is amended to read  
7 as follows:

8 “(b)(1) The rights and powers of a trustee under sec-  
9 tions 544, 545, and 549 of this title are subject to any  
10 generally applicable law that—

11 “(A) permits perfection of an interest in prop-  
12 erty to be effective against an entity that acquires  
13 rights in the property before the date of perfection;  
14 or

15 “(B) provides for the maintenance or continu-  
16 ation of perfection of an interest in property to be  
17 effective against an entity that acquires rights in the  
18 property before the date on which action is taken to  
19 effect such maintenance or continuation.

20 “(2) If—

21 “(A) a law described in paragraph (1) requires  
22 seizure of property that is subject to a perfected in-  
23 terest or commencement of an action to accomplish  
24 perfection or maintenance or continuation of an in-  
25 terest in property; and

1           “(B) the property has not been seized or an ac-  
2           tion has not been commenced before the date of the  
3           filing of the petition,  
4           the interest in such property shall be perfected, or perfec-  
5           tion of such interest shall be maintained or continued, by  
6           notice within the time fixed by that law for the seizure  
7           of property or commencement of an action.”.

8   **SEC. 220. NOTICES TO CREDITORS.**

9           Section 342 of title 11, United States Code, is  
10          amended by adding at the end the following new sub-  
11          section:

12          “(c) If notice is required to be given by the debtor  
13          to a creditor under this title, any rule, any applicable law,  
14          or any order of the court, such notice shall contain the  
15          name and address of the debtor and the account number,  
16          if any, of the debt owed to the creditor if the account num-  
17          ber is known to or reasonably ascertainable by the debt-  
18          or.”.

19   **SEC. 221. SUPPLEMENTAL INJUNCTIONS.**

20          Section 524 of title 11, United States Code, is  
21          amended by adding at the end the following new sub-  
22          section:

23          “(g)(1)(A) After notice and hearing, a court that en-  
24          ters an order confirming a plan of reorganization under

1 chapter 11 may issue an injunction to supplement the in-  
2 junctive effect of a discharge under this section.

3 “(B) An injunction may be issued under subpara-  
4 graph (A) to enjoin persons and governmental units from  
5 taking legal action for the purpose of directly or indirectly  
6 collecting, recovering, or receiving payment or recovery of,  
7 on, or with respect to any claim or demand that, under  
8 a plan of reorganization, is to be paid in whole or in part  
9 by a trust described in paragraph (2)(B)(i), except such  
10 legal actions as are expressly allowed by the injunction,  
11 the confirmation order, or the plan of reorganization.

12 “(2)(A) If the requirements of subparagraph (B) are  
13 met at any time, then, after entry of an injunction under  
14 paragraph (1), any proceeding that involves the validity,  
15 application, construction, or modification of the injunction  
16 or of this subsection with respect to the injunction may  
17 be commenced only in the district court in which the in-  
18 junction was entered, and such court shall have exclusive  
19 jurisdiction over any such proceeding without regard to  
20 the amount in controversy.

21 “(B) The requirements of this subparagraph are  
22 that—

23 “(i) the injunction is to be implemented in con-  
24 nection with a trust that, pursuant to the plan of re-  
25 organization—

1           “(I) is to assume the liabilities of a debtor  
2           which at the time of entry of the order for relief  
3           has been named as a defendant in personal in-  
4           jury, wrongful death, or property-damage ac-  
5           tions seeking recovery for damages allegedly  
6           caused by the presence of, or exposure to, as-  
7           bestos or asbestos-containing products;

8           “(II) is to be funded in whole or in part  
9           by the securities of 1 or more debtors involved  
10          in the plan of reorganization and by the obliga-  
11          tion of such debtor or debtors to make future  
12          payments;

13          “(III) is to own, or by the exercise of  
14          rights granted under the plan could own, a ma-  
15          jority of the voting shares of—

16               “(aa) each such debtor;

17               “(bb) the parent corporation of each  
18          such debtor; or

19               “(cc) a subsidiary of each such debtor  
20          that is also a debtor; and

21          “(IV) is to use its assets or income to pay  
22          claims and demands; and

23          “(ii) the court, at any time pursuant to its au-  
24          thority under the plan, over the trust, or otherwise,  
25          determines that—



1           “(I) the debtor may be subject to substan-  
2           tial future demands for payment arising out of  
3           the same or similar conduct or events that gave  
4           rise to the claims that are addressed by the in-  
5           junction;

6           “(II) the actual amounts, numbers, and  
7           timing of such future demands cannot be deter-  
8           mined;

9           “(III) pursuit of such demands outside the  
10          procedures prescribed by the plan may threaten  
11          the plan’s purpose to deal equitably with claims  
12          and future demands;

13          “(IV) as part of the process of seeking ap-  
14          proval of the plan of reorganization—

15               “(aa) the terms of the injunction pro-  
16               posed to be issued under paragraph (1)(A),  
17               including any provisions barring actions  
18               against third parties pursuant to para-  
19               graph (4)(A), shall be set out in the plan  
20               of reorganization and in any disclosure  
21               statement supporting the plan; and

22               “(bb) a separate class or classes of  
23               the claimants whose claims are to be ad-  
24               dressed by a trust described in clause (i) is  
25               established and votes, by at least 75 per-

1 cent of those voting, in favor of the plan;  
2 and

3 “(V) pursuant to court orders or otherwise,  
4 the trust will operate through mechanisms such  
5 as structured, periodic or supplemental pay-  
6 ments, pro rata distributions, matrices, or peri-  
7 odic review of estimates of the numbers and  
8 values of present claims and future demands or  
9 other comparable alternates, that provide rea-  
10 sonable assurance that the trust will value, and  
11 be in a financial position to pay, present claims  
12 and future demands that involve similar claims  
13 in substantially the same manner.

14 “(3)(A) If the requirements of paragraph (2)(B) are  
15 met and the order approving the plan of reorganization  
16 was issued or affirmed by the district court that has juris-  
17 diction over the reorganization proceedings, then after the  
18 time for appeal of the order that issues or affirms the plan  
19 of reorganization—

20 “(i) the injunction shall be valid and enforce-  
21 able and may not be revoked or modified by any  
22 court except through appeal in accordance with  
23 paragraph (6);

24 “(ii) no entity that pursuant to the plan of re-  
25 organization or thereafter becomes a direct or indi-

1 rect transferee of, or successor to any assets of, a  
2 debtor or trust that is the subject of the injunction  
3 shall be liable with respect to any claim or demand  
4 made against it by reason of its becoming such a  
5 transferee or successor; and

6 “(iii) no entity that pursuant to the plan of re-  
7 organization or thereafter makes a loan to such a  
8 debtor or trust or to such a successor or transferee  
9 shall, by reason of making the loan, be liable with  
10 respect to any claim or demand made against it, nor  
11 shall any pledge of assets made in connection with  
12 such a loan be upset or impaired for that reason;

13 “(B) Subparagraph (A) shall not be construed to—

14 “(i) imply that an entity described in subpara-  
15 graph (A) (ii) or (iii) would, if this paragraph were  
16 not applicable, have liability by reason of any of the  
17 acts described in subparagraph (A);

18 “(ii) relieve any such entity of the duty to com-  
19 ply with, or of liability under, any Federal or State  
20 law regarding the making of a fraudulent convey-  
21 ance in a transaction described in subparagraph (A)  
22 (ii) or (iii); or

23 “(iii) relieve a debtor of the debtor’s obligation  
24 to comply with the terms of the plan of reorganiza-  
25 tion or affect the power of the court to exercise its

1 authority under sections 1141 and 1142 to compel  
2 the debtor to do so.

3 “(4)(A)(i) Subject to subparagraph (B), an injunc-  
4 tion under paragraph (1) shall be valid and enforceable  
5 against all persons and governmental units that it ad-  
6 dresses.

7 “(ii) Notwithstanding section 524(e), such an injunc-  
8 tion may bar any action directed against a third party  
9 who—

10 “(I) is identifiable from the terms of the injunc-  
11 tion (by name or as part of an identifiable group);  
12 and

13 “(II) is alleged to be directly or indirectly liable  
14 for the conduct of, claims against, or demands on  
15 the debtor.

16 “(B) With respect to a demand (including a demand  
17 directed against a third party who is identifiable from the  
18 terms of the injunction (either by name or as part of an  
19 identifiable group) and who is alleged to be directly or in-  
20 directly liable for the conduct of, claims against, or de-  
21 mands on the debtor) that is made subsequent to the con-  
22 firmation of a plan against any person or entity that is  
23 the subject of an injunction issued under paragraph (1),  
24 the injunction shall be valid and enforceable if, as part  
25 of the proceedings leading to its issuance, the court ap-

1 pointed a legal representative for the purpose of protecting  
2 the rights of persons that might subsequently assert such  
3 a demand.

4 “(5) In this subsection, the term ‘demand’ means a  
5 demand for payment, present or future, that—

6 “(A) was not a claim during the proceedings  
7 leading to the confirmation of a plan of reorganiza-  
8 tion;

9 “(B) arises out of the same or similar conduct  
10 or events that gave rise to the claims addressed by  
11 the injunction issued under paragraph (1); and

12 “(C) pursuant to the plan, is to be paid by a  
13 trust described in paragraph (2)(B)(i).

14 “(6) Paragraph (3)(A)(i) does not bar an action  
15 taken by or at the direction of an appellate court on appeal  
16 of an injunction issued under paragraph (1) or of the  
17 order of confirmation that relates to the injunction.

18 “(7) This subsection applies to any injunction of the  
19 nature described in paragraph (1)(B) in effect, and any  
20 trust of the nature described in paragraph (2)(B) in exist-  
21 ence, on or after the date of enactment of this subsection.

22 “(8) This subsection does not affect the operation of  
23 section 1144 or the power of the district court to refer  
24 a proceeding under section 157 of title 28 or any reference

1 of a proceeding made prior to the date of enactment of  
2 this subsection.

3 “(9) Nothing in subsection (g) shall affect the court’s  
4 authority to issue an injunction (including an injunction  
5 that requires claims and demands to be presented for pay-  
6 ment solely to a trust or any other type of court approved  
7 settlement vehicle) which is entered pursuant to an order  
8 approving a plan of reorganization.

9 “(10)(A) If, upon a motion by a representative ap-  
10 pointed by the court identified in paragraph (1)(A) to pro-  
11 tect the interests of persons with demands of the kind de-  
12 scribed in paragraph (2)(B)(ii)(I) or on its own motion,  
13 the court finds, as a result of enhanced credible estimating  
14 procedures with respect to such demands, inequities in the  
15 distribution process of a trust of the nature described in  
16 paragraph (2)(B), the court shall have, in addition to the  
17 powers over the trust that the court may lawfully exercise  
18 under applicable nonbankruptcy law, plenary equitable  
19 power to reform, restructure, or modify the trust, the pro-  
20 cedures under which it operates, or the timing, manner,  
21 and amount of distributions to its beneficiaries and other  
22 rights of the beneficiaries, giving special attention to cases  
23 presenting exigent circumstances, as it shall determine to  
24 be fair, just, and reasonable in light of the circumstances

1 prevailing at the time of reformation, restructure or modi-  
2 fication.

3 “(B) Nothing in this paragraph shall be construed  
4 to grant the court authority to modify or in any way alter  
5 the debtor’s obligation to comply with the terms of the  
6 plan of reorganization.”.

7 **SEC. 222. REJECTION OF UNEXPIRED LEASES OF REAL**  
8 **PROPERTY OR TIMESHARE INTERESTS.**

9 (a) AMENDMENT OF SECTION 365.—Section 365(h)  
10 of title 11, United States Code, is amended to read as  
11 follows:

12 “(h)(1)(A) If the trustee rejects an unexpired lease  
13 of real property under which the debtor is the lessor—

14 “(i) if the rejection by the trustee amounts to  
15 such a breach as would entitle the lessee to treat the  
16 lease as terminated by virtue of its own terms, appli-  
17 cable nonbankruptcy law, or any other lease or  
18 agreement that the lessee has made with another  
19 party, the lessee under the lease may treat the lease  
20 as terminated by the rejection; or

21 “(ii) if the term of the lease has commenced,  
22 the lessee may retain its rights under the lease that  
23 are in or appurtenant to the leasehold estate (includ-  
24 ing lease provisions such as those relating to the  
25 amount and timing of payment of rent and other

1 amounts payable by the lessee or to any right of use,  
2 possession, quiet enjoyment, subletting, assignment,  
3 or hypothecation) for the balance of the term of the  
4 lease and for any renewal or extension of such term  
5 as is enforceable under applicable nonbankruptcy  
6 law.

7 “(B) If the lessee retains its rights under subpara-  
8 graph (A)(ii), the lessee may set off against the rent re-  
9 served under the lease for the balance of the term after  
10 the date of the rejection of the lease, and any renewal or  
11 extension of the lease, any damages occurring after the  
12 date of rejection caused by the nonperformance of any ob-  
13 ligation of the debtor under the lease after that date, but  
14 the lessee does not have any rights against the estate on  
15 account of any damages arising after that date from the  
16 rejection, other than the setoff.

17 “(C) The rejection of a lease of real property in a  
18 shopping center with respect to which the lessee elects to  
19 retain its rights under subparagraph (A)(ii) does not af-  
20 fect the enforceability under applicable nonbankruptcy law  
21 of any provision in the lease pertaining to radius, location,  
22 use, exclusivity, or tenant mix or balance.

23 “(D) In this paragraph, ‘lessee’ includes any succes-  
24 sor, assign, or mortgagee permitted by the lease.



1       “(2)(A) If the trustee rejects a timeshare interest  
2 under a timeshare plan under which the debtor is the  
3 timeshare interest seller—

4           “(i) the timeshare interest purchaser under the  
5 timeshare plan may treat the timeshare plan as ter-  
6 minated by the rejection if the rejection amounts to  
7 such a breach as would entitle the timeshare interest  
8 purchaser to treat the timeshare plan as terminated  
9 by virtue of its own terms, applicable nonbankruptcy  
10 law, or any other agreement that the timeshare in-  
11 terest purchaser has made with another party; or

12          “(ii) the timeshare interest purchaser may re-  
13 tain its rights in the timeshare interest under any  
14 timeshare plan the term of which has commenced for  
15 the balance of such term and for any renewal or ex-  
16 tension of such term as is enforceable under applica-  
17 ble nonbankruptcy law.

18       “(B) If the timeshare interest purchaser retains its  
19 rights under subparagraph (A), the timeshare interest  
20 purchaser may set off against the moneys due for the  
21 timeshare interest for the balance of the term after the  
22 date of the rejection of the timeshare interest, and any  
23 renewal or extension thereof, any damages occurring after  
24 the date of rejection caused by the nonperformance of any  
25 obligation of the debtor under the timeshare plan after

1 that date, but the timeshare interest purchaser does not  
2 have any rights against the estate on account of any dam-  
3 ages arising after that date from the rejection, other than  
4 the setoff.”.

5 (b) TECHNICAL AMENDMENT.—Section 553(b)(1) of  
6 title 11, United States Code, is amended by striking  
7 “365(h)(2)” and inserting “365(h)”.

8 **SEC. 223. CONTENTS OF PLAN.**

9 Section 1123(b) of title 11, United States Code, is  
10 amended—

11 (1) by striking “and” at the end of paragraph  
12 (4);

13 (2) by redesignating paragraph (5) as para-  
14 graph (6); and

15 (3) by inserting after paragraph (4) the follow-  
16 ing new paragraph:

17 “(5) in a case in which the debtor is a small  
18 business, modify the rights of holders of secured  
19 claims, other than a claim secured only by a security  
20 interest in real property that is the debtor’s prin-  
21 cipal residence, or of holders of unsecured claims, or  
22 leave unaffected the rights of holders of any class of  
23 claims, but the plan may not modify a claim pursu-  
24 ant to section 506 of a person holding a primary or  
25 a junior security interest in real property or a manu-

1       factured home (as defined in section 603(6) of the  
2       National Manufactured Housing Construction and  
3       Safety Standards Act of 1974 (42 U.S.C. 5402(6))  
4       that is the debtor's principal residence, except that  
5       the plan may modify the claim of a person holding  
6       such a junior security interest that was  
7       undersecured at the time the interest attached to the  
8       extent that the interest remains undersecured;”.

9       **SEC. 224. PRIORITY FOR INDEPENDENT SALES REPRESENT-**  
10       **ATIVES.**

11       Section 507(a)(3) of title 11, United States Code, is  
12       amended to read as follows:

13               “(3) Third, allowed unsecured claims, but only  
14       to the extent of \$2,000 for each individual or cor-  
15       poration, as the case may be, earned within 90 days  
16       before the date of the filing of the petition or the  
17       date of the cessation of the debtor's business, which-  
18       ever occurs first, for—

19               “(A) wages, salaries, or commissions, in-  
20       cluding vacation, severance, and sick leave pay  
21       earned by an individual; or

22               “(B) sales commissions earned by an indi-  
23       vidual or by a corporation with only 1 employee,  
24       acting as an independent contractor in the sale  
25       of goods or services for the debtor in the ordi-

1           nary course of the debtor’s business if, and only  
 2           if, during the 12 months preceding that date, at  
 3           least 75 percent of the amount that the individ-  
 4           ual or corporation earned by acting as an inde-  
 5           pendent contractor in the sale of goods or serv-  
 6           ices was earned from the debtor;”.

7   **SEC. 225. AMEND BANKRUPTCY CODE.**

8           (a) Amend section 541(b)(4), of title 11, United  
 9   States Code to read as follows:

10           “(4) any interest of the debtor in liquid or gase-  
 11   ous hydrocarbons to the extent—

12           “(A)(i) the debtor has transferred or has  
 13   agreed to transfer such interest pursuant to a  
 14   farmout agreement or any written agreement  
 15   directly related to a farmout agreement; and

16           “(ii) but for the operation of this para-  
 17   graph, the estate could include such interest  
 18   only by virtue of section 365 or 544(a) of this  
 19   title; or

20           “(B) the debtor has transferred such inter-  
 21   est pursuant to a conveyance of a production  
 22   payment or an oil and gas lease.

23   Paragraph (4) shall not be construed to exclude  
 24   from the estate any consideration the debtor retains,  
 25   receives, or is entitled to receive for transferring an

1 interest in liquid or gaseous hydrocarbons pursuant  
 2 to a farmout agreement, production payment, or oil  
 3 and gas lease.”.

4 (b) Amend section 101, of title 11, United States  
 5 Code by adding after paragraph (42) the following:

6 “(43) ‘production payment’ is not a gross roy-  
 7 alty. A production payment is a term overriding roy-  
 8 alty which is an interest in liquid or gaseous hydro-  
 9 carbons in place or to be produced from a property  
 10 or properties, that entitles the owner thereof to a  
 11 share of production, or the value thereof, for a term  
 12 limited by time, quantity, or value realized, or any  
 13 formula based on one or more of such factors.”.

## 14 **TITLE III—CONSUMER** 15 **BANKRUPTCY ISSUES**

### 16 **SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO** 17 **PRINCIPAL RESIDENCE.**

18 Section 1322 of title 11, United States Code, as  
 19 amended by section 207(d), is amended—

20 (1) by redesignating subsections (c) and (d) as  
 21 subsections (d) and (e); and

22 (2) by inserting after subsection (b) the follow-  
 23 ing new subsection:

24 “(c) Notwithstanding State law and subsection  
 25 (b)(2), and whether or not a claim is matured or reduced

1 to judgment prior to consummation of a foreclosure sale,  
 2 a debtor who at the time of filing a petition under this  
 3 title possesses any legal or equitable interest, including a  
 4 right of redemption, in real property securing a claim—

5 “(1) may cure a default and maintain payments  
 6 on the claim pursuant to subsection (b) (3) or (5);  
 7 or

8 “(2) in a case in which the last payment on the  
 9 original payment schedule for the claim is due before  
 10 the date on which the final payment under the plan  
 11 is due, may provide for the payment of the claim  
 12 pursuant to section 1325(a)(5).”.

13 **SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAP-**  
 14 **TER 13.**

15 (a) IN GENERAL.—Section 1328(a)(3) of title 11,  
 16 United States Code, is amended by inserting “, or a fine  
 17 to the extent such fine exceeds \$500, ” after “restitution”.

18 (b) TECHNICAL AMENDMENT.—Section 3613(f) of  
 19 title 18, United States Code, is amended by striking “No”  
 20 and inserting “Except as provided in section 1328(a)(3)  
 21 of title 11, no”.

22 **SEC. 303. IMPAIRMENT OF EXEMPTIONS.**

23 (a) IN GENERAL.—Section 522(f) of title 11, United  
 24 States Code, is amended—

1           (1) by inserting “(1)” before “Notwithstand-  
2   ing”;

3           (2) by redesignating paragraph (1) as subpara-  
4   graph (A);

5           (3) by redesignating paragraph (2) as subpara-  
6   graph (B) and subparagraphs (A), (B), and (C) of  
7   that paragraph as clauses (i), (ii), and (iii); and

8           (4) by adding at the end the following new  
9   paragraph:

10          “(2)(A) For the purposes of this subsection, a  
11   lien shall be considered to impair an exemption to  
12   the extent that the sum of—

13               “(i) the lien;

14               “(ii) all other liens on the property that  
15   are equal or greater in seniority to the lien; and

16               “(iii) the amount of the exemption that the  
17   debtor could claim if there were no liens on the  
18   property,

19   exceeds the value that the debtor’s interest in the  
20   property would have in the absence of any liens.

21          “(B) In the case of a property subject to more  
22   than 1 lien, a lien that has been avoided shall not  
23   be considered in making the calculation under sub-  
24   paragraph (A) with respect to other liens.”.

1 (b) RULE OF CONSTRUCTION; APPLICATION OF  
 2 AMENDMENT.—Section 522(f)(2) of title 11, United  
 3 States Code, as added by subsection (a)—

4 (1) shall not be construed to apply with respect  
 5 to a judgment arising out of a mortgage foreclosure;  
 6 and

7 (2) shall not apply with respect to a  
 8 nonpossessory, nonpurchase-money security interest  
 9 given before the date of enactment of this Act (in-  
 10 cluding a security interest with respect to which the  
 11 value of the collateral increases after a case under  
 12 that title is commenced).

13 **SEC. 304. PROTECTION OF CHILD SUPPORT AND ALIMONY.**

14 (a) RELIEF FROM AUTOMATIC STAY.—Section  
 15 362(b)(2) of title 11, United States Code, is amended to  
 16 read as follows:

17 “(2) under subsection (a) of this section—

18 “(A) of the commencement or continuation  
 19 of an action or proceeding for—

20 “(i) the establishment of paternity; or

21 “(ii) the establishment or modification  
 22 of an order for alimony, maintenance, or  
 23 support; or



1           “(B) of the collection of alimony, mainte-  
2           nance, or support from property that is not  
3           property of the estate;”.

4       (b) PRIORITY OF CLAIMS.—

5           (1) ALIMONY OR SUPPORT.—Section 507(a) of  
6       title 11, United States Code, is amended—

7           (A) in paragraph (7) by striking “(7) Sev-  
8           enth” and inserting “(8) Eighth”;

9           (B) in paragraph (8) by striking “(8)  
10          Eighth” and inserting “(9) Ninth”; and

11          (C) by inserting after paragraph (6) the  
12          following new paragraph:

13          “(7) Seventh, allowed claims for debts to a  
14          spouse, former spouse, or child of the debtor, for ali-  
15          mony to, maintenance for, or support of such spouse  
16          or child, in connection with a separation agreement,  
17          divorce decree or other order of a court of record,  
18          determination made in accordance with State or ter-  
19          ritorial law by a governmental unit, or property set-  
20          tlement agreement, but not to the extent that such  
21          debt—

22               “(A) is assigned to another entity, volun-  
23               tarily, by operation of law, or otherwise; or

24               “(B) includes a liability designated as ali-  
25               mony, maintenance, or support, unless such li-

1 ability is actually in the nature of alimony,  
2 maintenance or support.”.

3 (2) TECHNICAL AMENDMENTS.—Title 11, Unit-  
4 ed States Code, is amended—

5 (A) in section 502(i) by striking  
6 “507(a)(7)” and inserting “507(a)(8)”;

7 (B) in section 503(b)(1)(B)(i) by striking  
8 “507(a)(7)” and inserting “507(a)(8)”;

9 (C) in section 523(a)(1)(A) by striking  
10 “507(a)(7)” and inserting “507(a)(8)”;

11 (D) in section 724(b)(2) by striking “or  
12 507(a)(6)” and inserting “507(a)(6), or  
13 507(a)(7)”;

14 (E) in section 726(b) by striking “or (7)”  
15 and inserting “, (7), or (8)”;

16 (F) in section 1123(a)(1) by striking  
17 “507(a)(7)” and inserting “507(a)(8)”;

18 (G) in section 1129(a)(9)—

19 (i) in subparagraph (B) by striking  
20 “or 507(a)(6)” and inserting “, 507(a)(6),  
21 or 507(a)(7)”;

22 (ii) in subparagraph (C) by striking  
23 “507(a)(7)” and inserting “507(a)(8)”.

24 (c) PROTECTION OF LIENS.—Section 522(f) of title  
25 11, United States Code, as amended by section 303, is

1 amended by amending paragraph (1)(A) to read as fol-  
2 lows:

3 “(A) a judicial lien (other than a judicial lien  
4 that secures a debt to a spouse, former spouse, or  
5 child of the debtor, for alimony to, maintenance for,  
6 or support of the spouse or child, in connection with  
7 a separation agreement, divorce decree or other  
8 order of a court of record, determination made in  
9 accordance with State or territorial law by a govern-  
10 mental unit, or property settlement agreement, to  
11 the extent that the debt—

12 “(i) is not assigned to another entity, vol-  
13 untarily, by operation of law, or otherwise; and

14 “(ii) includes a liability designated as ali-  
15 mony, maintenance, or support, unless such li-  
16 ability is actually in the nature of alimony,  
17 maintenance or support); or”.

18 (d) PROTECTION AGAINST TRUSTEE AVOIDANCE.—  
19 Section 547(c) of title 11, United States Code, is amend-  
20 ed—

21 (1) by striking “or” at the end of para-  
22 graph (6);

23 (2) by redesignating paragraph (7) as  
24 paragraph (8); and

1                   (3) by inserting after paragraph (6) the  
2                   following new paragraph:

3                   “(7) to the extent that the transfer was a bona  
4                   fide payment of a debt to a spouse, former spouse,  
5                   or child of the debtor, for alimony to, maintenance  
6                   for, or support of such spouse or child, in connection  
7                   with a separation agreement, divorce decree or other  
8                   order of a court of record, determination made in  
9                   accordance with State or territorial law by a govern-  
10                  mental unit, or property settlement agreement, but  
11                  not to the extent that such debt—

12                  “(A) is assigned to another entity, volun-  
13                  tarily, by operation of law, or otherwise; or

14                  “(B) includes a liability designated as ali-  
15                  mony, maintenance, or support, unless such li-  
16                  ability is actually in the nature of alimony,  
17                  maintenance or support; or”.

18                  (e) APPEARANCE BEFORE COURT.—A child support  
19                  creditor or its representative shall be permitted to appear  
20                  and intervene without charge and without meeting any  
21                  special local court rule requirement for attorney appear-  
22                  ances in any bankruptcy proceeding in any bankruptcy  
23                  court or district court of the United States if the creditor  
24                  or representative files with the court a statement describ-

1 ing in detail the child support debt, its status, and other  
 2 characteristics.

3 **SEC. 305. BANKRUPTCY PETITION PREPARERS.**

4 (a) AMENDMENT OF CHAPTER 1.—

5 (1) IN GENERAL.—Chapter 1 of title 11, United  
 6 States Code, is amended by adding at the end the  
 7 following new section:

8 **“SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**  
 9 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**  
 10 **TITIONS.**

11 “(a) DEFINITION.—In this section—

12 “‘bankruptcy petition preparer’ means a per-  
 13 son, other than an attorney or an employee of an at-  
 14 torney, who prepares for compensation a document  
 15 for filing.

16 “‘document for filing’ means a petition or any  
 17 other document prepared for filing by a debtor in a  
 18 United States bankruptcy court or a United States  
 19 district court in connection with a case under this  
 20 title.

21 “(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy  
 22 petition preparer who prepares a document for filing shall  
 23 sign the document and print on the document the prepar-  
 24 er’s name and address.

1       “(2) A bankruptcy petition preparer who fails to com-  
2 ply with paragraph (1) may be fined not more than \$500  
3 for each such failure unless the failure is due to reasonable  
4 cause.

5       “(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A  
6 bankruptcy petition preparer who prepares a document for  
7 filing shall place on the document, after the preparer’s sig-  
8 nature, an identifying number that identifies the individ-  
9 uals who prepared the document.

10       “(2) For purposes of this section, the identifying  
11 number of a bankruptcy petition preparer shall be the So-  
12 cial Security account number of each individual who pre-  
13 pared the document or assisted in its preparation.

14       “(3) A bankruptcy petition preparer who fails to com-  
15 ply with paragraph (1) may be fined not more than \$500  
16 for each such failure unless the failure is due to reasonable  
17 cause.

18       “(d) FURNISHING OF COPY TO THE DEBTOR.—(1)  
19 A bankruptcy petition preparer shall, not later than the  
20 time at which a document for filing is presented for the  
21 debtor’s signature, furnish to the debtor a copy of the doc-  
22 ument.

23       “(2) A bankruptcy petition preparer who fails to com-  
24 ply with paragraph (1) may be fined not more than \$500

1 for each such failure unless the failure is due to reasonable  
2 cause.

3 “(e) NO AUTHORIZATION TO EXECUTE DOCU-  
4 MENTS.—(1) A bankruptcy petition preparer shall not exe-  
5 cute any document on behalf of a debtor.

6 “(2) A bankruptcy petition preparer may be fined not  
7 more than \$500 for each document executed in violation  
8 of paragraph (1).

9 “(f) ADVERTISING.—(1) A bankruptcy petition pre-  
10 parer shall not use the word “legal” or any similar term  
11 in any advertisements, or advertise under any category  
12 that includes the word “legal” or any similar term.

13 “(2) A bankruptcy petition preparer shall be fined  
14 not more than \$500 for each violation of paragraph (1).

15 “(g) COURT FEES.—(1) A bankruptcy petition pre-  
16 parer shall not collect or receive any payment from the  
17 debtor or on behalf of the debtor for the court fees in con-  
18 nection with filing the petition.

19 “(2) A bankruptcy petition preparer shall be fined  
20 not more than \$500 for each violation of paragraph (1).

21 “(h) FEES FOR SERVICES.—(1) Within 10 days after  
22 the date of the filing of a petition, a bankruptcy petition  
23 preparer shall file a declaration under penalty of perjury  
24 disclosing any fee received from or on behalf of the debtor

1 within 12 months immediately prior to the filing of the  
2 case, and any unpaid fee charged to the debtor.

3 “(2) The court shall disallow and order the imme-  
4 diate turnover to the bankruptcy trustee of any fee re-  
5 ferred to in paragraph (1) found to be in excess of the  
6 value of typing services for the documents prepared. The  
7 debtor may exempt any funds so recovered under section  
8 522(b).

9 “(3) The debtor, the trustee, a creditor, or the United  
10 States trustee may file a motion for an order under para-  
11 graph (2).

12 “(4) A bankruptcy petition preparer shall be fined  
13 not more than \$500 for each failure to comply with a court  
14 order to turn over funds within 30 days of service of such  
15 order.

16 “(i) DAMAGES.—(1) If a bankruptcy case or related  
17 proceeding is dismissed because of the failure to file bank-  
18 ruptcy forms, the negligence or intentional disregard of  
19 this title or the bankruptcy rules by a bankruptcy petition  
20 preparer, or if a bankruptcy petition preparer violates this  
21 section or commits any fraudulent, unfair, or deceptive  
22 act, the bankruptcy court shall certify that fact to the dis-  
23 trict court, and the district court, on motion of the debtor,  
24 the trustee, or a creditor and after a hearing, shall order  
25 the bankruptcy petition preparer to pay to the debtor—



1           “(A) the debtor’s actual damages;

2           “(B) the greater of—

3               “(i) \$2,000; or

4               “(ii) twice the amount paid by the debtor  
5           to the bankruptcy petition preparer for the pre-  
6           parer’s services; and

7           “(C) reasonable attorneys’ fees and costs in  
8           moving for damages under this subsection.

9           “(2) If the trustee or creditor moves for damages on  
10          behalf of the debtor under this subsection, the bankruptcy  
11          petition preparer shall be ordered to pay the movant the  
12          additional amount of \$1,000 plus reasonable attorneys’  
13          fees and costs incurred.

14          “(j) INJUNCTIVE RELIEF.—

15               “(1) IN GENERAL.—A debtor for whom a bank-  
16          ruptcy petition preparer has prepared a document  
17          for filing, the trustee, a creditor, or the United  
18          States trustee in the district in which the bank-  
19          ruptcy petition preparer resides, has conducted busi-  
20          ness, or the United States trustee in any other dis-  
21          trict in which the debtor resides may bring a civil  
22          action to enjoin a bankruptcy petition preparer from  
23          engaging in any conduct in violation of this section  
24          or from further acting as a bankruptcy petition pre-  
25          parer.

1           “(2) CONDUCT.—(A) In an action under para-  
2 graph (1), if the court finds that—

3           “(i) a bankruptcy petition preparer has—

4           “(I) engaged in conduct in violation of  
5 this section or of any provision of this title  
6 a violation of which subjects a person to  
7 criminal penalty;

8           “(II) misrepresented the preparer’s  
9 experience or education as a bankruptcy  
10 petition preparer; or

11           “(III) engaged in any other fraudu-  
12 lent, unfair, or deceptive conduct; and

13           “(ii) injunctive relief is appropriate to pre-  
14 vent the recurrence of such conduct,  
15 the court may enjoin the bankruptcy petition pre-  
16 parer from engaging in such conduct.

17           “(B) If the court finds that a bankruptcy peti-  
18 tion preparer has continually engaged in conduct de-  
19 scribed in clause (i) (I), (II), or (III) and that an  
20 injunction prohibiting such conduct would not be  
21 sufficient to prevent such person’s interference with  
22 the proper administration of this title, or has not  
23 paid a penalty imposed under this section, the court  
24 may enjoin the person from acting as a bankruptcy  
25 petition preparer.

1           “(3) ATTORNEY’S FEE.—The court shall award  
 2           to a debtor, trustee, or creditor that brings a suc-  
 3           cessful action under this subsection reasonable attor-  
 4           ney’s fees and costs of the action, to be paid by the  
 5           bankruptcy petition preparer.

6           “(k) UNAUTHORIZED PRACTICE OF LAW.—Nothing  
 7           in this section shall be construed to permit activities that  
 8           are otherwise prohibited by law, including rules and laws  
 9           that prohibit the unauthorized practice of law.”.

10           (2) TECHNICAL AMENDMENT.—The chapter  
 11           analysis for chapter 1 of title 11, United States  
 12           Code, is amended by adding at the end the following  
 13           new item:

“110. Penalty for persons who negligently or fraudulently prepare bankruptcy  
 petitions.”.

14           (b) AMENDMENT OF TITLE 18, UNITED STATES  
 15           CODE.—

16           (1) OFFENSES.—Chapter 9 of title 18, United  
 17           States Code, is amended—

18                   (A) by amending sections 152, 153, and  
 19                   154 to read as follows:

20           **“§ 152. Concealment of assets; false oaths and claims;**  
 21                   **bribery**

22           “A person who—

23                   “(1) knowingly and fraudulently conceals from  
 24                   a custodian, trustee, marshal, or other officer of the

1 court charged with the control or custody of prop-  
2 erty, or, in connection with a case under title 11,  
3 from creditors or the United States Trustee, any  
4 property belonging to the estate of a debtor;

5 “(2) knowingly and fraudulently makes a false  
6 oath or account in or in relation to any case under  
7 title 11;

8 “(3) knowingly and fraudulently makes a false  
9 declaration, certificate, verification, or statement  
10 under penalty of perjury as permitted under section  
11 1746 of title 28, in or in relation to any case under  
12 title 11;

13 “(4) knowingly and fraudulently presents any  
14 false claim for proof against the estate of a debtor,  
15 or uses any such claim in any case under title 11,  
16 in a personal capacity or as or through an agent,  
17 proxy, or attorney;

18 “(5) knowingly and fraudulently receives any  
19 material amount of property from a debtor after the  
20 filing of a case under title 11, with intent to defeat  
21 the provisions of title 11;

22 “(6) knowingly and fraudulently gives, offers,  
23 receives, or attempts to obtain any money or prop-  
24 erty, remuneration, compensation, reward, advan-

1       tage, or promise thereof for acting or forbearing to  
2       act in any case under title 11;

3           “(7) in a personal capacity or as an agent or  
4       officer of any person or corporation, in contempla-  
5       tion of a case under title 11 by or against the person  
6       or any other person or corporation, or with intent to  
7       defeat the provisions of title 11, knowingly and  
8       fraudulently transfers or conceals any of his prop-  
9       erty or the property of such other person or corpora-  
10      tion;

11          “(8) after the filing of a case under title 11 or  
12      in contemplation thereof, knowingly and fraudulently  
13      conceals, destroys, mutilates, falsifies, or makes a  
14      false entry in any recorded information (including  
15      books, documents, records, and papers) relating to  
16      the property or financial affairs of a debtor; or

17          “(9) after the filing of a case under title 11,  
18      knowingly and fraudulently withholds from a custo-  
19      dian, trustee, marshal, or other officer of the court  
20      or a United States Trustee entitled to its possession,  
21      any recorded information (including books, docu-  
22      ments, records, and papers) relating to the property  
23      or financial affairs of a debtor,

24      shall be fined not more than \$5,000, imprisoned not more  
25      than 5 years, or both.

1 **“§ 153. Embezzlement against estate**

2 “(a) OFFENSE.—A person described in subsection (b)  
3 who knowingly and fraudulently appropriates to the per-  
4 son’s own use, embezzles, spends, or transfers any prop-  
5 erty or secretes or destroys any document belonging to the  
6 estate of a debtor shall be fined not more than \$5,000,  
7 imprisoned not more than 5 years, or both.

8 “(b) PERSON TO WHOM SECTION APPLIES.—A per-  
9 son described in this subsection is one who has access to  
10 property or documents belonging to an estate by virtue  
11 of the person’s participation in the administration of the  
12 estate as a trustee, custodian, marshal, attorney, or other  
13 officer of the court or as an agent, employee, or other per-  
14 son engaged by such an officer to perform a service with  
15 respect to the estate.

16 **“§ 154. Adverse interest and conduct of officers**

17 “A person who, being a custodian, trustee, marshal,  
18 or other officer of the court—

19 “(1) knowingly purchases, directly or indirectly,  
20 any property of the estate of which the person is  
21 such an officer in a case under title 11;

22 “(2) knowingly refuses to permit a reasonable  
23 opportunity for the inspection by parties in interest  
24 of the documents and accounts relating to the af-  
25 fairs of estates in the person’s charge by parties  
26 when directed by the court to do so; or

1           “(3) knowingly refuses to permit a reasonable  
2           opportunity for the inspection by the United States  
3           Trustee of the documents and accounts relating to  
4           the affairs of states in the person’s charge,  
5           shall be fined not more than \$5,000 and shall forfeit the  
6           person’s office, which shall thereupon become vacant.”;  
7           and

8                               (B) by adding at the end the following new  
9           section:

10   **“§ 156. Willful disregard of bankruptcy law or rule**

11           “(a) DEFINITIONS.—In this section—

12                       “‘bankruptcy petition preparer’ means a per-  
13           son, other than an attorney or an employee of an at-  
14           torney, who prepares for compensation a document  
15           for filing.

16                       “‘document for filing’ means a petition or any  
17           other document prepared for filing by a debtor in a  
18           United States bankruptcy court or a United States  
19           district court in connection with a case under this  
20           title.

21           “(b) OFFENSE.—If a bankruptcy case or related pro-  
22           ceeding is dismissed because of a willful attempt by a  
23           bankruptcy petition preparer in any manner to disregard  
24           the requirements of title 11, United States Code, or the

1 Bankruptcy Rules, the bankruptcy petition preparer shall  
2 be fined \$5,000.”.

3 (2) TECHNICAL AMENDMENTS.—The chapter  
4 analysis for chapter 9 of title 18, United States  
5 Code, is amended—

6 (A) by amending the item relating to sec-  
7 tion 153 to read as follows:

“Sec. 153. Embezzlement against estate.”;

8 and

9 (B) by adding at the end the following new  
10 item:

“Sec. 156. Willful disregard of bankruptcy law or rule.”.

11 **SEC. 306. CONVERSION OR DISMISSAL.**

12 Section 1307 of title 11, United States Code, is  
13 amended by adding at the end the following new sub-  
14 section:

15 “(g) The clerk of the court shall give notice to all  
16 creditors not later than 30 days after the entry of an order  
17 of conversion or dismissal.”.

18 **SEC. 307. CONTENTS OF PLAN.**

19 Section 1322(b)(2) of title 11, United States Code,  
20 is amended by striking “claims;” and inserting “claims,  
21 but the plan may not modify a claim pursuant to section  
22 506 of a person holding a primary or a junior security  
23 interest in real property or a manufactured home (as de-  
24 fined in section 603(6) of the National Manufactured



1 Housing Construction and Safety Standards Act of 1974  
2 (42 U.S.C. 5402(6)) that is the debtor’s principal resi-  
3 dence, except that the plan may modify the claim of a per-  
4 son holding such a junior security interest that was  
5 undersecured at the time the interest attached to the ex-  
6 tent that the interest remains undersecured;”.

7 **SEC. 308. STAY OF ACTION AGAINST CODEBTOR.**

8 Section 1301 of title 11, United States Code, is  
9 amended—

10 (1) in subsection (c)—

11 (A) by striking “or” at the end of para-  
12 graph (2);

13 (B) by striking the period at the end of  
14 paragraph (3) and inserting “; or”; and

15 (C) by adding at the end the following new  
16 paragraph:

17 “(4) the claim is for an amount valued at not  
18 greater than \$25,000, and such relief is not a sub-  
19 stantial impediment to an effective reorganization by  
20 the debtor, and unless the codebtor has dem-  
21 onstrated an inability to pay such claim or a sub-  
22 stantial portion of such claim.”; and

23 (2) by adding at the end the following new sub-  
24 section:

1       “(e) If the relief sought by the creditor pursuant to  
2 subsection (c)(4) is granted by the court, the codebtor  
3 shall by subrogation have the same rights as the creditor,  
4 under this title, against the debtor to the extent of the  
5 amount of relief obtained from the codebtor. Pending any  
6 delay in obtaining relief from the codebtor, after the court  
7 order, payment by the debtor shall continue to be paid  
8 to the creditor, but subject to the developing subrogation  
9 rights of the codebtor.”.

10 **SEC. 309. EXEMPTION FOR HOUSEHOLD GOODS.**

11       Section 522(a) of title 11, United States Code, is  
12 amended—

13           (1) by striking “and” at the end of paragraph  
14       (1) and redesignating that paragraph as paragraph  
15       (2);

16           (2) by inserting before paragraph (2), as rededesignated  
17       by paragraph (1), the following new paragraph:  
18       graph:

19           “(1) ‘antique’, for purposes of subsection (d),  
20       means an item that was more than 100 years old at  
21       the time it was acquired by the debtor, including  
22       such an item that has been repaired or renovated  
23       without changing its original form or character;”;

1           (3) by redesignating paragraph (2), as des-  
 2           ignated prior to the date of enactment of this Act,  
 3           as paragraph (4); and

4           (4) by inserting after paragraph (2), as redesign-  
 5           ated by paragraph (1), the following new para-  
 6           graph:

7           “(3) ‘household goods’, for purposes of sub-  
 8           section (d), means clothing, furniture, appliances,  
 9           linens, china, crockery, kitchenware, and personal ef-  
 10          fects of the debtor and the debtor’s dependents, but  
 11          does not include—

12                   “(A) works of art;

13                   “(B) electronic entertainment equipment  
 14                   (except to the extent of 1 television and 1  
 15                   radio);

16                   “(C) antiques; and

17                   “(D) jewelry other than wedding rings;

18                   and

19   **SEC. 310. PROFESSIONAL FEES.**

20           Section 330(a) of title 11, United States Code, is  
 21           amended to read as follows:

22           “(a)(1) After notice to the parties in interest and the  
 23           United States trustee and a hearing, and subject to sec-  
 24           tions 326, 328, and 329, the court may award to a trustee,

1 an examiner, a professional person employed under section  
2 327 or 1103—

3 “(A) reasonable compensation for actual, nec-  
4 essary services rendered by the trustee, examiner,  
5 professional person, or attorney and by any para-  
6 professional person employed by any such person;  
7 and

8 “(B) reimbursement for actual, necessary ex-  
9 penses.

10 “(2) The court may, on its own motion or on the mo-  
11 tion of the United States Trustee, the United States  
12 Trustee for the District or Region, the trustee for the es-  
13 tate, or any other party in interest, award compensation  
14 that is less than the amount of compensation that is re-  
15 quested.

16 “(3)(A) In determining the amount of reasonable  
17 compensation to be awarded, the court shall consider the  
18 nature, the extent, and the value of such services, taking  
19 into account all relevant factors, including—

20 “(A) the time spent on such services;

21 “(B) the rates charged for such services;

22 “(C) whether the services were necessary to the  
23 administration of, or beneficial at the time at which  
24 the service was rendered toward the completion of,  
25 a case under this title;

1           “(D) the total value of the estate and the  
2           amount of funds or other property available for dis-  
3           tribution to all creditors, both secured and unse-  
4           cured;

5           “(E) whether the services were performed with-  
6           in a reasonable amount of time commensurate with  
7           the complexity, importance, and nature of the prob-  
8           lem, issue, or task addressed; and

9           “(F) whether the compensation is reasonable  
10          based on the customary compensation charged by  
11          comparably skilled practitioners in cases other than  
12          cases under this title.

13          “(4)(A) Except as provided in subparagraph (B), the  
14          court shall not allow compensation for—

15               “(i) unnecessary duplication of services; or

16               “(ii) services that were not—

17                       “(I) reasonably likely to benefit the debt-  
18                       or’s estate; or

19                       “(II) necessary to the administration of  
20                       the case.

21          “(B) In a chapter 12 or chapter 13 case in which  
22          the debtor is an individual, the court may allow reasonable  
23          compensation to the debtor’s attorney for representing the  
24          interests of the debtor in connection with the bankruptcy  
25          case based on a consideration of the benefit and necessity

1 of such services to the debtor and the other factors set  
2 forth in this section.

3 “(5) The court shall reduce the amount of compensa-  
4 tion awarded under this section by the amount of any in-  
5 terim compensation awarded under section 331, and, if the  
6 amount of such interim compensation exceeds the amount  
7 of compensation awarded under this section, may order  
8 the return of the excess to the estate.

9 “(6) Any compensation awarded for the preparation  
10 of a fee application shall be based on the level and skill  
11 reasonably required to prepare the application.”.

12 **SEC. 311. INTEREST ON INTEREST.**

13 (a) CHAPTER 11.—Section 1123 of title 11, United  
14 States Code, is amended by adding at the end the follow-  
15 ing new subsection:

16 “(d) Notwithstanding subsection (a) of this section  
17 and sections 506(b), 1129(a)(7), and 1129(b) of this title,  
18 if it is proposed in a plan to cure a default, the amount  
19 necessary to cure the default, shall be determined in ac-  
20 cordance with the underlying agreement and applicable  
21 nonbankruptcy law.”.

22 (b) CHAPTER 12.—Section 1222 of title 11, United  
23 States Code, is amended by adding at the end the follow-  
24 ing new subsection:

1       “(d) Notwithstanding subsection (b)(2) of this sec-  
2 tion and sections 506(b) and 1225(a)(5) of this title, if  
3 it is proposed in a plan to cure a default, the amount nec-  
4 essary to cure the default, shall be determined in accord-  
5 ance with the underlying agreement and applicable  
6 nonbankruptcy law.”.

7       (c) CHAPTER 13.—Section 1322 of title 11, United  
8 States Code, is amended by adding at the end the follow-  
9 ing new subsection:

10       “(f) Notwithstanding subsection (b)(2) of this section  
11 and sections 506(b) and 1325(a)(5) of this title, if it is  
12 proposed in a plan to cure a default, the amount necessary  
13 to cure the default, shall be determined in accordance with  
14 the underlying agreement and applicable nonbankruptcy  
15 law.”.

16       (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to agreements described in sections  
18 1123(d), 1222(d), and 1322(f) of title 11, United States  
19 Code, as added by this section, that are entered into after  
20 the date of enactment of this Act.

21 **SEC. 312. FAIRNESS TO CONDOMINIUM AND COOPERATIVE**  
22 **OWNERS.**

23       Section 523(a) of title 11, United States Code, as  
24 amended by section 210, is amended—

1           (1) by striking “or” at the end of paragraph  
2           (13);

3           (2) by adding “or” at the end of paragraph  
4           (14); and

5           (3) by adding at the end the following new  
6           paragraph:

7           “(15) for a fee that becomes due and payable  
8           after the order for relief to a membership association  
9           with respect to the debtor’s interest in a dwelling  
10          unit that has condominium ownership or in a share  
11          of a cooperative housing corporation, if such fee is  
12          payable for a period during a substantial portion of  
13          which—

14                 “(A) the debtor physically occupied a  
15                 dwelling unit in the condominium or cooperative  
16                 project; or

17                 “(B) the debtor rented the dwelling unit to  
18                 a tenant and received payments from the tenant  
19                 for such period,

20          but nothing in this paragraph shall except from dis-  
21          charge the debt of a debtor for a membership asso-  
22          ciation fee for a period arising before entry of the  
23          order for relief in a pending or subsequent bank-  
24          ruptcy proceeding.”.



1 **SEC. 313. NONAVOIDABILITY OF FIXING OF LIEN ON TOOLS**  
2 **AND IMPLEMENTS OF TRADE, ANIMALS, AND**  
3 **CROPS.**

4 (a) AMENDMENT.—Section 522(f) of title 11, United  
5 States Code, as amended by section 303(c), is amended—

6 (1) by striking “Notwithstanding any waiver of  
7 exemptions,” and inserting “(1) Notwithstanding  
8 any waiver of exemptions but subject to paragraph  
9 (2)’”;

10 (2) by striking “(1) a judicial” and inserting  
11 “(A) a judicial”;

12 (3) by striking “(A) is not assigned” and in-  
13 serting “(i) is not assigned”;

14 (4) by striking “(B) includes a liability” and in-  
15 serting “(ii) includes a liability”;

16 (5) by striking “(2) a nonpossessory” and in-  
17 serting “(B) a nonpossessory”;

18 (6) by striking “(A) household” and inserting  
19 “(i) household”;

20 (7) by striking “(B) implements, professional  
21 books, or tools,” and inserting “(ii) implements, pro-  
22 fessional books, or tools”

23 (8) by striking “(C) professionally” and insert-  
24 ing “(iii) professionally”; and

25 (9) by adding at the end the following new  
26 paragraph:

1       “(2) In a case in which State law that is applicable  
2 to the debtor—

3           “(A) permits a person to voluntarily waive a  
4 right to claim exemptions under subsection (d) or  
5 prohibits a debtor from claiming exemptions under  
6 subsection (d); and

7           “(B) permits the debtor to claim exemptions  
8 under State law without limitation in amount, except  
9 to the extent that the debtor has permitted the fix-  
10 ing of a consensual lien on any property,  
11 the debtor may not avoid the fixing of a lien on an interest  
12 of the debtor or a dependent of the debtor in property  
13 if the lien is a nonpossessory, nonpurchase-money security  
14 interest in implements, professional books, or tools of the  
15 trade of the debtor or a dependent of the debtor or farm  
16 animals or crops of the debtor or a dependent of the debt-  
17 or.”.

18       (b) APPLICATION OF AMENDMENT.—The amend-  
19 ments made by subsection (a) shall not apply with respect  
20 to a case commenced under title 11, United States Code,  
21 before the date of enactment of this Act.

1 **SEC. 314. NONDISCHARGEABILITY OF DEBT FOR MONEY,**  
2 **PROPERTY, SERVICES, OR CREDIT OBTAINED**  
3 **BY FALSE PRETENSE, FALSE REPRESENTA-**  
4 **TION, OR FRAUD.**

5 Section 1328(a)(2) of title 11, United States Code,  
6 is amended by inserting “(2)(A),” after “paragraph”.

7 **SEC. 315. CONVERSION OF CASE UNDER CHAPTER 13.**

8 Section 348 of title 11, United States Code, is  
9 amended by adding at the end the following new sub-  
10 section:

11 “(f) When a case under chapter 13 is converted to  
12 another chapter—

13 “(1) property of the estate in the converted  
14 case shall consist of property of the estate, as of the  
15 date of filing of the petition, that remains in the  
16 possession of or is under the control of the debtor  
17 on the date of conversion; and

18 “(2) valuations of property and of allowed se-  
19 cured claims in the chapter 13 case shall apply in  
20 the converted case, with allowed secured claims re-  
21 duced to the extent that they have been paid in ac-  
22 cordance with the chapter 13 plan.”.

23 **SEC. 316. RENT-TO-OWN CONTRACTS.**

24 (a) DEFINITION.—Section 101 of title 11, United  
25 States Code, is amended by inserting in their proper al-  
26 phabetical positions the following new definitions:

1           “ ‘consumer good’ means an item of personal  
2           property (not including a motor vehicle) acquired by  
3           an individual primarily for a personal, family, or  
4           household purpose.”.

5           “ ‘rent-to-own contract’ means an agreement,  
6           in the form of a terminable lease or bailment of a  
7           consumer good, between a person regularly engaged  
8           in the business of making consumer goods available  
9           to individuals and an individual, under which—

10           “(A) the lessee or bailee—

11                   “(i) has the right of possession and  
12                   use of the consumer good; and

13                   “(ii) has the option to renew the  
14                   agreement periodically by making pay-  
15                   ments specified in the agreement; and

16           “(B) the lessor or bailor agrees, orally or  
17           in writing, to transfer ownership of the  
18           consumer good to the lessee or bailee upon the  
19           fulfillment of all obligations of the lessee or  
20           bailee for the transfer under the agreement.”.

21           (b) TREATMENT OF RENT-TO-OWN CONTRACTS AS  
22           SECURED PURCHASE CONTRACTS.—

23           (1) CHAPTER 7.—Subchapter II of chapter 7 of  
24           title 11, United States Code, is amended by adding  
25           at the end the following new section:

1 **“§ 729. Rent-to-own contracts**

2 “In a proceeding under this chapter in which the  
3 debtor is in possession of a consumer good under a rent-  
4 to-own contract, the debtor and the lessor or bailor shall  
5 be accorded the same rights and obligations with respect  
6 to the consumer good, respectively, as they would be ac-  
7 corded if the rent-to-own contract had been a purchase  
8 contract.”.

9 (2) CHAPTER 13.—Subchapter I of chapter 13  
10 of title 11, United States Code, is amended by add-  
11 ing at the end the following new section:

12 **“§ 1308. Rent-to-own contracts**

13 “In a proceeding under this chapter in which the  
14 debtor is in possession of a consumer good under a rent-  
15 to-own contract, the debtor and the lessor or bailor shall  
16 be accorded the same rights and obligations with respect  
17 to the consumer good, respectively, as they would be ac-  
18 corded if the rent-to-own contract had been a purchase  
19 contract.”.

20 (c) TECHNICAL AMENDMENTS.—

21 (1) CHAPTER 7.—The chapter analysis for  
22 chapter 7 of title 11, United states Code, is amend-  
23 ed by inserting after the item for section 728 the fol-  
24 lowing new item:

“729. Rent-To-Own Contracts.”.

1           (2) CHAPTER 13.—The chapter analysis for  
2       chapter 13 of title 11, United States Code, is amend-  
3       ed by inserting after the item for section 1307 the  
4       following new item:

“1308. Rent-To-Own Contracts.”.

5       **TITLE IV—BANKRUPTCY REVIEW**  
6                               **COMMISSION**

7       **SEC. 401. SHORT TITLE.**

8       This title may be cited as the “National Bankruptcy  
9       Review Commission Act”.

10      **SEC. 402. ESTABLISHMENT.**

11      There is established the National Bankruptcy Review  
12      Commission (referred to as the “Commission”).

13      **SEC. 403. DUTIES OF THE COMMISSION.**

14      The duties of the Commission are—

15           (1) to investigate and study issues and prob-  
16       lems relating to title 11, United States Code (com-  
17       monly known as the “Bankruptcy Code”);

18           (2) to evaluate the advisability of proposals and  
19       current arrangements with respect to such issues  
20       and problems;

21           (3) to prepare and submit to the Congress, the  
22       Chief Justice, and the President a report in accord-  
23       ance with section 408; and

24           (4) to solicit divergent views of all parties con-  
25       cerned with the operation of the bankruptcy system.

1 **SEC. 404. MEMBERSHIP.**

2 (a) NUMBER AND APPOINTMENT.—The Commission  
3 shall be composed of 9 members as follows:

4 (1) Three members appointed by the President,  
5 1 of whom shall be designated as chairman by the  
6 President.

7 (2) One member shall be appointed by the  
8 President pro tempore of the Senate.

9 (3) One member shall be appointed by the Mi-  
10 nority Leader of the Senate.

11 (4) One member shall be appointed by the  
12 Speaker of the House of Representatives.

13 (5) One member shall be appointed by the Mi-  
14 nority Leader of the House of Representatives.

15 (6) Two members appointed by the Chief Jus-  
16 tice.

17 (b) TERM.—Members of the Commission shall be ap-  
18 pointed for the life of the Commission.

19 (c) QUORUM.—Five members of the Commission  
20 shall constitute a quorum, but a lesser number may con-  
21 duct meetings.

22 (d) APPOINTMENT DEADLINE.—The first appoint-  
23 ments made under subsection (a) shall be made within 60  
24 days after the date of enactment of this Act.

1       (e) FIRST MEETING.—The first meeting of the Com-  
2 mission shall be called by the chairman and shall be held  
3 within 90 days after the date of enactment of this Act.

4       (f) VACANCY.—A vacancy on the Commission result-  
5 ing from the death or resignation of a member shall not  
6 affect its powers and shall be filled in the same manner  
7 in which the original appointment was made.

8       (g) CONTINUATION OF MEMBERSHIP.—If any mem-  
9 ber of the Commission who was appointed to the Commis-  
10 sion as a member of Congress or as an officer or employee  
11 of a government leaves that office, or if any member of  
12 the Commission who was not appointed in such a capacity  
13 becomes an officer or employee of a government, the mem-  
14 ber may continue as a member of the Commission for not  
15 longer than the 90-day period beginning on the date the  
16 member leaves that office or becomes such an officer or  
17 employee, as the case may be.

18       (h) CONSULTATION PRIOR TO APPOINTMENT.—Prior  
19 to the appointment of members of the Commission, the  
20 President, the President pro tempore of the Senate, the  
21 Speaker of the House of Representatives, and the Chief  
22 Justice shall consult with each other to ensure fair and  
23 equitable representation of various points of view in the  
24 Commission and its staff.



1 **SEC. 405. COMPENSATION OF THE COMMISSION.**

2 (a) PAY.—

3 (1) NONGOVERNMENT EMPLOYEES.—Each  
4 member of the Commission who is not otherwise em-  
5 ployed by the United States Government shall be en-  
6 titled to receive the daily equivalent of the annual  
7 rate of basic pay payable for level IV of the Execu-  
8 tive Schedule under section 5315 of title 5, United  
9 States Code, for each day (including travel time)  
10 during which he or she is engaged in the actual per-  
11 formance of duties as a member of the Commission.

12 (2) GOVERNMENT EMPLOYEES.—A member of  
13 the Commission who is an officer or employee of the  
14 United States Government shall serve without addi-  
15 tional compensation.

16 (b) TRAVEL.—Members of the Commission shall be  
17 reimbursed for travel, subsistence, and other necessary ex-  
18 penses incurred by them in the performance of their du-  
19 ties.

20 **SEC. 406. STAFF OF COMMISSION; EXPERTS AND CONSULT-**  
21 **ANTS.**

22 (a) STAFF.—

23 (1) APPOINTMENT.—The chairman of the Com-  
24 mission may, without regard to the civil service laws  
25 and regulations, appoint, and terminate an executive  
26 director and such other personnel as are necessary

1 to enable the Commission to perform its duties. The  
2 employment of an executive director shall be subject  
3 to confirmation by the Commission.

4 (2) COMPENSATION.—The chairman of the  
5 Commission may fix the compensation of the execu-  
6 tive director and other personnel without regard to  
7 the provisions of chapter 51 and subchapter II of  
8 chapter 53 of title 5, United States Code, relating  
9 to classification of positions and General Schedule  
10 pay rates, except that the rate of pay for the execu-  
11 tive director and other personnel may not exceed the  
12 rate payable for level V of the Executive Schedule  
13 under section 5316 of that title.

14 (b) EXPERTS AND CONSULTANTS.—The Commission  
15 may procure temporary and intermittent services of ex-  
16 perts and consultants under section 3109(b) of title 5,  
17 United States Code.

18 **SEC. 407. POWERS OF THE COMMISSION.**

19 (a) HEARINGS AND MEETINGS.—The Commission or,  
20 on authorization of the Commission, a member of the  
21 Commission, may hold such hearings, sit and act at such  
22 time and places, take such testimony, and receive such evi-  
23 dence, as the Commission considers appropriate. The  
24 Commission or a member of the Commission may admin-

1 ister oaths or affirmations to witnesses appearing before  
2 it.

3 (b) OFFICIAL DATA.—The Commission may secure  
4 directly from any Federal department, agency, or court  
5 information necessary to enable it to carry out this title.  
6 Upon request of the chairman of the Commission, the  
7 head of a Federal department or agency or chief judge  
8 of a Federal court shall furnish such information, consist-  
9 ent with law, to the Commission.

10 (c) FACILITIES AND SUPPORT SERVICES.—The Ad-  
11 ministrator of General Services shall provide to the Com-  
12 mission on a reimbursable basis such facilities and support  
13 services as the Commission may request. Upon request of  
14 the Commission, the head of a Federal department or  
15 agency may make any of the facilities or services of the  
16 agency available to the Commission to assist the Commis-  
17 sion in carrying out its duties under this title.

18 (d) EXPENDITURES AND CONTRACTS.—The Commis-  
19 sion or, on authorization of the Commission, a member  
20 of the Commission may make expenditures and enter into  
21 contracts for the procurement of such supplies, services,  
22 and property as the Commission or member considers ap-  
23 propriate for the purposes of carrying out the duties of  
24 the Commission. Such expenditures and contracts may be

1 made only to such extent or in such amounts as are pro-  
2 vided in appropriation Acts.

3 (e) **MAILS.**—The Commission may use the United  
4 States mails in the same manner and under the same con-  
5 ditions as other Federal departments and agencies of the  
6 United States.

7 (f) **GIFTS.**—The Commission may accept, use, and  
8 dispose of gifts or donations of services or property.

9 **SEC. 408. REPORT.**

10 The Commission shall submit to the Congress, the  
11 Chief Justice, and the President a report not later than  
12 2 years after the date of its first meeting. The report shall  
13 contain a detailed statement of the findings and conclu-  
14 sions of the Commission, together with its recommenda-  
15 tions for such legislative or administrative action as it con-  
16 siders appropriate.

17 **SEC. 409. TERMINATION.**

18 The Commission shall cease to exist on the date that  
19 is 30 days after the date on which it submits its report  
20 under section 408.

21 **SEC. 410. AUTHORIZATION OF APPROPRIATIONS.**

22 There is authorized to be appropriated \$1,500,000 to  
23 carry out this title.

1     **TITLE V—BANKRUPTCY FRAUD**

2     **SEC. 501. BANKRUPTCY FRAUD.**

3         (a) IN GENERAL.—

4             (1) OFFENSES.—Chapter 9 of title 18, United  
5         States Code, is amended—

6                 (A) by amending sections 152, 153, and  
7             154 to read as follows:

8     **“§ 152. Concealment of assets; false oaths and claims;**  
9             **bribery**

10         “A person who—

11             “(1) knowingly and fraudulently conceals from  
12         a custodian, trustee, marshal, or other officer of the  
13         court charged with the control or custody of prop-  
14         erty, or, in connection with a case under title 11,  
15         from creditors or the United States Trustee, any  
16         property belonging to the estate of a debtor;

17             “(2) knowingly and fraudulently makes a false  
18         oath or account in or in relation to any case under  
19         title 11;

20             “(3) knowingly and fraudulently makes a false  
21         declaration, certificate, verification, or statement  
22         under penalty of perjury as permitted under section  
23         1746 of title 28, in or in relation to any case under  
24         title 11;

1           “(4) knowingly and fraudulently presents any  
2       false claim for proof against the estate of a debtor,  
3       or uses any such claim in any case under title 11,  
4       in a personal capacity or as or through an agent,  
5       proxy, or attorney;

6           “(5) knowingly and fraudulently receives any  
7       material amount of property from a debtor after the  
8       filing of a case under title 11, with intent to defeat  
9       the provisions of title 11;

10          “(6) knowingly and fraudulently gives, offers,  
11       receives, or attempts to obtain any money or prop-  
12       erty, remuneration, compensation, reward, advan-  
13       tage, or promise thereof for acting or forbearing to  
14       act in any case under title 11;

15          “(7) in a personal capacity or as an agent or  
16       officer of any person or corporation, in contempla-  
17       tion of a case under title 11 by or against the person  
18       or any other person or corporation, or with intent to  
19       defeat the provisions of title 11, knowingly and  
20       fraudulently transfers or conceals any of his prop-  
21       erty or the property of such other person or corpora-  
22       tion;

23          “(8) after the filing of a case under title 11 or  
24       in contemplation thereof, knowingly and fraudulently  
25       conceals, destroys, mutilates, falsifies, or makes a

1 false entry in any recorded information (including  
2 books, documents, records, and papers) relating to  
3 the property or financial affairs of a debtor; or

4 “(9) after the filing of a case under title 11,  
5 knowingly and fraudulently withholds from a custo-  
6 dian, trustee, marshal, or other officer of the court  
7 or a United States Trustee entitled to its possession,  
8 any recorded information (including books, docu-  
9 ments, records, and papers) relating to the property  
10 or financial affairs of a debtor,

11 shall be fined not more than \$5,000, imprisoned not more  
12 than 5 years, or both.

13 **“§ 153. Embezzlement against estate**

14 “(a) OFFENSE.—A person described in subsection (b)  
15 who knowingly and fraudulently appropriates to the per-  
16 son’s own use, embezzles, spends, or transfers any prop-  
17 erty or secretes or destroys any document belonging to the  
18 estate of a debtor shall be fined not more than \$5,000,  
19 imprisoned not more than 5 years, or both.

20 “(b) PERSON TO WHOM SECTION APPLIES.—A per-  
21 son described in this subsection is one who has access to  
22 property or documents belonging to an estate by virtue  
23 of the person’s participation in the administration of the  
24 estate as a trustee, custodian, marshal, attorney, or other  
25 officer of the court or as an agent, employee, or other per-

1 son engaged by such an officer to perform a service with  
2 respect to the estate.

3 **“§ 154. Adverse interest and conduct of officers**

4 “A person who, being a custodian, trustee, marshal,  
5 or other officer of the court—

6 “(1) knowingly purchases, directly or indirectly,  
7 any property of the estate of which the person is  
8 such an officer in a case under title 11;

9 “(2) knowingly refuses to permit a reasonable  
10 opportunity for the inspection by parties in interest  
11 of the documents and accounts relating to the af-  
12 fairs of estates in the person’s charge by parties  
13 when directed by the court to do so; or

14 “(3) knowingly refuses to permit a reasonable  
15 opportunity for the inspection by the United States  
16 Trustee of the documents and accounts relating to  
17 the affairs of an estate in the person’s charge,

18 shall be fined not more than \$5,000 and shall forfeit the  
19 person’s office, which shall thereupon become vacant.”;  
20 and

21 (B) by adding at the end the following new  
22 sections:

23 **“§ 156. Knowing disregard of bankruptcy law or rule**

24 “(a) DEFINITIONS.—In this section—



1           “‘bankruptcy petition preparer’ means a per-  
2       son, other than the debtor’s attorney or an employee  
3       of such an attorney, who prepares for compensation  
4       a document for filing.

5           “‘document for filing’ means a petition or any  
6       other document prepared for filing by a debtor in a  
7       United States bankruptcy court or a United States  
8       district court in connection with a case under this  
9       title.

10       “(b) OFFENSE.—If a bankruptcy case or related pro-  
11      ceeding is dismissed because of a knowing attempt by a  
12      bankruptcy petition preparer in any manner to disregard  
13      the requirements of title 11, United States Code, or the  
14      Bankruptcy Rules, the bankruptcy petition preparer shall  
15      be fined under this title, imprisoned not more than 1 year,  
16      or both.

17   **“§ 157. Bankruptcy fraud**

18       “(a) OFFENSE.—A person who, having devised or in-  
19      tending to devise a scheme or artifice to defraud, or for  
20      obtaining money or property by means of a false or fraud-  
21      ulent pretense, representation, or promise, for the purpose  
22      of executing or concealing such a scheme or artifice or  
23      attempting to do so—

24           “(1) files a petition under title 11;

1           “(2) files a document in a proceeding under  
2 title 11; or

3           “(3) makes a false or fraudulent representation,  
4 claim, or promise concerning or in relation to a pro-  
5 ceeding under title 11, at any time before or after  
6 the filing of the petition, or in relation to a proceed-  
7 ing falsely asserted to be pending under that title,  
8 shall be fined under this title, imprisoned not more than  
9 5 years, or both.

10       “(b) REQUIREMENT OF INTENT.—

11           “(1) IN GENERAL.—The degree of intent re-  
12 quired to be shown in the case of an offense de-  
13 scribed in subsection (a) is that which is generally  
14 required to be shown in cases of fraud.

15           “(2) VIOLATION NOT ESTABLISHED.—A viola-  
16 tion of subsection (a) is not established if the de-  
17 fendant committed the act that is alleged to con-  
18 stitute fraud for a lawful purpose.

19           “(3) VIOLATION ESTABLISHED.—A violation of  
20 subsection (a) may be established if the defendant  
21 committed the act that is alleged to constitute fraud  
22 with a purpose of—

23           “(A) preventing the proper application of  
24 title 11 in a particular case; or

1           “(B) using a proceeding under title 11 in  
 2           a manner that, while on its face may appear to  
 3           be legitimate, is in fact part of a scheme to de-  
 4           fraud.”.

5           (2) TECHNICAL AMENDMENTS.—The chapter  
 6           analysis for chapter 9 of title 18, United States  
 7           Code, is amended—

8                   (A) by amending the item relating to sec-  
 9                   tion 153 to read as follows:

“Sec. 153. Embezzlement against estate.”;

10                   and

11                   (B) by adding at the end the following new  
 12                   item:

“Sec. 156. Knowing disregard of bankruptcy law or rule.

“Sec. 157. Bankruptcy fraud.”.

13           (b) RICO.—Section 1961(1)(D) of title 18, United  
 14           States Code, is amended by inserting “(except a case  
 15           under section 157 of that title)” after “title 11”.

## 16                   **TITLE VI—TECHNICAL** 17                   **CORRECTIONS**

### 18           **SEC. 601. TITLE 11, UNITED STATES CODE.**

19           (a) ALPHABETIZATION AND ELIMINATION OF PARA-  
 20           GRAPH DESIGNATIONS.—Section 101 of title 11, United  
 21           States Code, is amended to read as follows:

#### 22           **“§ 101. Definitions**

23           “In this title—

1           “‘accountant’ means an accountant authorized  
2           under applicable law to practice public accounting,  
3           and includes professional accounting association,  
4           corporation, or partnership, if so authorized.

5           “‘affiliate’ means—

6                   “(A) an entity that directly or indirectly  
7                   owns, controls, or holds with power to vote, 20  
8                   percent or more of the outstanding voting secu-  
9                   rities of the debtor, other than an entity that  
10                  holds such securities—

11                           “(i) in a fiduciary or agency capacity  
12                           without sole discretionary power to vote  
13                           such securities; or

14                           “(ii) solely to secure a debt, if such  
15                           entity has not in fact exercised such power  
16                           to vote;

17                   “(B) a corporation 20 percent or more of  
18                   whose outstanding voting securities are directly  
19                   or indirectly owned, controlled, or held with  
20                   power to vote, by the debtor, or by an entity  
21                   that directly or indirectly owns, controls, or  
22                   holds with power to vote, 20 percent or more of  
23                   the outstanding voting securities of the debtor,  
24                   other than an entity that holds such securi-  
25                  ties—

1           “(i) in a fiduciary or agency capacity  
2           without sole discretionary power to vote  
3           such securities; or

4           “(ii) solely to secure a debt, if such  
5           entity has not in fact exercised such power  
6           to vote;

7           “(C) a person whose business is operated  
8           under a lease or operating agreement by a debt-  
9           or, or person substantially all of whose property  
10          is operated under an operating agreement with  
11          the debtor; or

12          “(D) an entity that operates the business  
13          or substantially all of the property of the debtor  
14          under a lease or operating agreement.

15          “‘attorney’ means an attorney, professional law  
16          association, corporation, or partnership, authorized  
17          under applicable law to practice law.

18          “‘claim’ means—

19               “(A) a right to payment, whether or not  
20               such right is reduced to judgment, liquidated,  
21               unliquidated, fixed, contingent, matured,  
22               unmatured, disputed, undisputed, legal, equi-  
23               table, secured, or unsecured; or

24               “(B) a right to an equitable remedy for  
25               breach of performance if such breach gives rise

1 to a right to payment, whether or not such  
2 right to an equitable remedy is reduced to judg-  
3 ment, fixed, contingent, matured, unmatured,  
4 disputed, undisputed, secured, or unsecured.

5 “‘commodity broker’ means a futures commis-  
6 sion merchant, foreign futures commission mer-  
7 chant, clearing organization, leverage transaction  
8 merchant, or commodity options dealer (as defined  
9 in section 761) with respect to which there is a cus-  
10 tomer (as defined in section 761).

11 “‘community claim’ means a claim that arose  
12 before the commencement of the case concerning the  
13 debtor for which property of the kind specified in  
14 section 541(a)(2) is liable, whether or not there is  
15 any such property at the time of the commencement  
16 of the case.

17 “‘consumer debt’ means debt incurred by an  
18 individual primarily for a personal, family, or house-  
19 hold purpose.

20 “‘corporation’—

21 “(A) includes—

22 “(i) an association having a power or  
23 privilege that a private corporation, but  
24 not an individual or a partnership, pos-  
25 sesses;

1           “(ii) a partnership association orga-  
2           nized under a law that makes only the cap-  
3           ital subscribed responsible for the debts of  
4           such association;

5           “(iii) a joint-stock company;

6           “(iv) an unincorporated company or  
7           association; or

8           “(v) a business trust; but

9           “(B) does not include a limited partner-  
10          ship.

11         “‘creditor’ means—

12           “(A) an entity that has a claim against the  
13           debtor that arose at the time of or before the  
14           order for relief concerning the debtor;

15           “(B) an entity that has a claim against the  
16           estate of a kind specified in section 348(d),  
17           502(f), 502(g), 502(h), or 502(i); or

18           “(C) an entity that has a community  
19           claim.

20         “‘custodian’ means—

21           “(A) a receiver or trustee of any of the  
22           property of the debtor, appointed in a case or  
23           proceeding not under this title;

24           “(B) an assignee under a general assign-  
25           ment for the benefit of the debtor’s creditors; or

1           “(C) a trustee, receiver, or agent under ap-  
2           plicable law, or under a contract, that is ap-  
3           pointed or authorized to take charge of property  
4           of the debtor for the purpose of enforcing a lien  
5           against such property, or for the purpose of  
6           general administration of such property for the  
7           benefit of the debtor’s creditors.

8           “‘debt’ means liability on a claim.

9           “‘debtor’ means a person or municipality con-  
10          cerning which a case under this title has been com-  
11          menced.

12          “‘disinterested person’ means a person that—

13               “(A) is not a creditor, an equity security  
14               holder, or an insider;

15               “(B) is not and was not an investment  
16               banker for any outstanding security of the debt-  
17               or;

18               “(C) has not been, within 3 years before  
19               the date of the filing of the petition, an invest-  
20               ment banker for a security of the debtor, or an  
21               attorney for such an investment banker in con-  
22               nection with the offer, sale, or issuance of a se-  
23               curity of the debtor;

24               “(D) is not and was not, within 2 years be-  
25               fore the date of the filing of the petition, a di-



1 rector, officer, or employee of the debtor or of  
2 an investment banker specified in subparagraph  
3 (B) or (C); and

4 “(E) does not have an interest materially  
5 adverse to the interest of the estate or of any  
6 class of creditors or equity security holders, by  
7 reason of any direct or indirect relationship to,  
8 connection with, or interest in, the debtor or an  
9 investment banker specified in subparagraph  
10 (B) or (C), or for any other reason.

11 “‘entity’ includes a person, estate, trust, gov-  
12 ernmental unit, and United States trustee.

13 “‘equity security’ means—

14 “(A) a share in a corporation, whether or  
15 not transferable or denominated ‘stock’, or  
16 similar security;

17 “(B) an interest of a limited partner in a  
18 limited partnership; or

19 “(C) a warrant or right, other than a right  
20 to convert, to purchase, sell, or subscribe to a  
21 share, security, or interest of a kind specified in  
22 subparagraph (A) or (B).

23 “‘equity security holder’ means a holder of an  
24 equity security of the debtor.

25 “‘family farmer’ means—

1           “(A) an individual or individual and spouse  
2 engaged in a farming operation whose aggregate  
3 debts do not exceed \$1,500,000 and not  
4 less than 80 percent of whose aggregate  
5 noncontingent, liquidated debts (excluding a  
6 debt for the principal residence of such individual  
7 or such individual and spouse unless such  
8 debt arises out of a farming operation), on the  
9 date the case is filed, arise out of a farming operation  
10 owned or operated by such individual or  
11 such individual and spouse, and such individual  
12 or such individual and spouse receive from such  
13 farming operation more than 50 percent of such  
14 individual’s or such individual and spouse’s  
15 gross income for the taxable year preceding the  
16 taxable year in which the case concerning such  
17 individual or such individual and spouse was  
18 filed; or

19           “(B) a corporation or partnership in which  
20 more than 50 percent of the outstanding stock  
21 or equity is held by one family, or by one family  
22 and the relatives of the members of such family,  
23 and such family or such relatives conduct the  
24 farming operation—

1           “(i) more than 80 percent of the value  
2           of its assets consists of assets related to  
3           the farming operation;

4           “(ii) its aggregate debts do not exceed  
5           \$1,500,000 and not less than 80 percent of  
6           its aggregate noncontingent, liquidated  
7           debts (excluding a debt for one dwelling  
8           which is owned by such corporation or  
9           partnership and which a shareholder or  
10          partner maintains as a principal residence,  
11          unless such debt arises out of a farming  
12          operation), on the date the case is filed,  
13          arise out of the farming operation owned  
14          or operated by such corporation or such  
15          partnership; and

16          “(iii) if such corporation issues stock,  
17          such stock is not publicly traded.

18          “‘family farmer with regular annual income’  
19          means a family farmer whose annual income is suffi-  
20          ciently stable and regular to enable such family  
21          farmer to make payments under a plan under chap-  
22          ter 12.

23          “‘farmer’ means (except when such term ap-  
24          pears in the term ‘family farmer’) a person that re-  
25          ceived more than 80 percent of such person’s gross

1 income during the taxable year of such person imme-  
2 diately preceding the taxable year of such person  
3 during which the case under this title concerning  
4 such person was commenced from a farming oper-  
5 ation owned or operated by such person.

6 “‘farming operation’ includes farming, tillage  
7 of the soil, dairy farming, ranching, production or  
8 raising of crops, poultry, or livestock, and production  
9 of poultry or livestock products in an unmanufac-  
10 tured state.

11 “‘Federal depository institutions regulatory  
12 agency’ means—

13 “(A) with respect to an insured depository  
14 institution (as defined in section 3(c)(2) of the  
15 Federal Deposit Insurance Act (12 U.S.C.  
16 1813(c)(2)) for which no conservator or receiver  
17 has been appointed, the appropriate Federal  
18 banking agency (as defined in section 3(q) of  
19 that Act);

20 “(B) with respect to an insured credit  
21 union (including an insured credit union for  
22 which the National Credit Union Administra-  
23 tion has been appointed conservator or liquidat-  
24 ing agent), the National Credit Union Adminis-  
25 tration;

1           “(C) with respect to any insured depository  
2           institution for which the Resolution Trust Cor-  
3           poration has been appointed conservator or re-  
4           ceiver, the Resolution Trust Corporation; and

5           “(D) with respect to any insured depository  
6           institution for which the Federal Deposit  
7           Insurance Corporation has been appointed con-  
8           servator or receiver, the Federal Deposit Insur-  
9           ance Corporation.

10          “‘financial institution’ means a person that is  
11          a commercial or savings bank, industrial savings  
12          bank, savings and loan association, or trust company  
13          and, when any such person is acting as agent or cus-  
14          todian for a customer in connection with a securities  
15          contract (as defined in section 741(a)), the cus-  
16          tomer.

17          “‘foreign proceeding’ means a proceeding,  
18          whether judicial or administrative and whether or  
19          not under bankruptcy law, in a foreign country in  
20          which the debtor’s domicile, residence, principal  
21          place of business, or principal assets were located at  
22          the commencement of such proceeding, for the pur-  
23          pose of liquidating an estate, adjusting debts by  
24          composition, extension, or discharge, or effecting a  
25          reorganization.

1           “‘foreign representative’ means a duly selected  
2 trustee, administrator, or other representative of an  
3 estate in a foreign proceeding.

4           “‘forward contract’ means a contract (other  
5 than a commodity contract) for the purchase, sale,  
6 or transfer of a commodity, as defined in section  
7 761, or any similar good, article, service, right, or  
8 interest which is presently or in the future becomes  
9 the subject of dealing in the forward contract trade,  
10 or product or byproduct thereof, with a maturity  
11 date more than 2 days after the date the contract  
12 is entered into, including, but not limited to, a re-  
13 purchase transaction, reverse repurchase trans-  
14 action, consignment, lease, swap, hedge transaction,  
15 deposit, loan, option, allocated transaction,  
16 unallocated transaction, or any combination thereof  
17 or option thereon.

18           “‘forward contract merchant’ means a person  
19 whose business consists in whole or in part of enter-  
20 ing into forward contracts as or with merchants in  
21 a commodity (as defined in section 761) or any simi-  
22 lar good, article, service, right, or interest which is  
23 presently or in the future becomes the subject of  
24 dealing in the forward contract trade.

25           “‘governmental unit’ means—

1           “(A) the United States, a State, Common-  
2           wealth, or Territory, the District of Columbia,  
3           a municipality, and a foreign state;

4           “(B) a department, agency, or instrumen-  
5           tality of the United States (but not a United  
6           States trustee while serving as a trustee in a  
7           case under this title), a State, Commonwealth,  
8           or Territory, the District of Columbia, a mu-  
9           nicipality, a foreign state; or

10          “(C) any other foreign or domestic govern-  
11          ment.

12          “‘indenture’ means a mortgage, deed of trust,  
13          or indenture, under which there is outstanding a se-  
14          curity, other than a voting-trust certificate, con-  
15          stituting a claim against the debtor, a claim secured  
16          by a lien on any of the debtor’s property, or an eq-  
17          uity security of the debtor.

18          “‘indenture trustee’ means a trustee under an  
19          indenture.

20          “‘individual with regular income’ means an in-  
21          dividual whose income is sufficiently stable and reg-  
22          ular to enable such individual to make payments  
23          under a plan under chapter 13, other than a stock-  
24          broker or a commodity broker.

25          “‘insider’ includes—

1 “(A) if the debtor is an individual—

2 “(i) a relative of the debtor or of a  
3 general partner of the debtor;

4 “(ii) a partnership in which the debtor  
5 is a general partner;

6 “(iii) a general partner of the debtor;  
7 or

8 “(iv) a corporation of which the debt-  
9 or is a director, officer, or person in con-  
10 trol;

11 “(B) if the debtor is a corporation—

12 “(i) a director of the debtor;

13 “(ii) an officer of the debtor;

14 “(iii) a person in control of the debt-  
15 or;

16 “(iv) a partnership in which the debt-  
17 or is a general partner;

18 “(v) a general partner of the debtor;

19 or

20 “(vi) a relative of a general partner,  
21 director, officer, or person in control of the  
22 debtor;

23 “(C) if the debtor is a partnership—

24 “(i) a general partner in the debtor;



1           “(ii) a relative of a general partner in,  
2           general partner of, or person in control of  
3           the debtor;

4           “(iii) a partnership in which the debt-  
5           or is a general partner;

6           “(iv) a general partner of the debtor;  
7           or

8           “(v) a person in control of the debtor;

9           “(D) if the debtor is a municipality, an  
10          elected official of the debtor or relative of an  
11          elected official of the debtor;

12          “(E) an affiliate, or insider of an affiliate  
13          as if such affiliate were the debtor; and

14          “(F) a managing agent of the debtor.

15          “‘insolvent’ means—

16               “(A) with reference to an entity other than  
17               a partnership and a municipality, being in a fi-  
18               nancial condition such that the sum of the enti-  
19               ty’s debts is greater than all of the entity’s  
20               property, at a fair valuation, exclusive of—

21                       “(i) property transferred, concealed,  
22                       or removed with intent to hinder, delay, or  
23                       defraud such entity’s creditors; and

1           “(ii) property that may be exempted  
2           from property of the estate under section  
3           522;

4           “(B) with reference to a partnership, being  
5           in a financial condition such that the sum of  
6           the partnership’s debts is greater than the ag-  
7           gregate of, at a fair valuation—

8           “(i) all of the partnership’s property,  
9           exclusive of property of the kind specified  
10          in subparagraph (A)(i); and

11          “(B) the sum of the excess of the  
12          value of each general partner’s  
13          nonpartnership property, exclusive of prop-  
14          erty of the kind specified in subparagraph  
15          (A), over such partner’s nonpartnership  
16          debts; and

17          “(C) with reference to a municipality,  
18          being in a financial condition such that the mu-  
19          nicipality is—

20               “(i) generally not paying its debts as  
21               they become due unless such debts are the  
22               subject of a bona fide dispute; and

23               “(ii) unable to pay its debts as they  
24               become due.

25               “ ‘institution-affiliated party’—

1           “(A) with respect to an insured depository  
2 institution (as defined in section 3(c)(2) of the  
3 Federal Deposit Insurance Act) (12 U.S.C.  
4 1813(c)(2)), has the meaning given it in section  
5 3(u) of the Federal Deposit Insurance Act (12  
6 U.S.C. 1813(u)); and

7           “(2) with respect to an insured credit  
8 union, has the meaning given it in section  
9 206(r) of the Federal Credit Union Act (12  
10 U.S.C. 1786(r)).

11           “‘insured credit union’ has the meaning given  
12 it in section 101(7) of the Federal Credit Union Act  
13 (12 U.S.C. 1752(7)).

14           “‘insured depository institution’—

15           “(A) has the meaning given it in section  
16 3(c)(2) of the Federal Deposit Insurance Act  
17 (12 U.S.C. 1813(c)(2)); and

18           “(B) includes an insured credit union (ex-  
19 cept as provided in the definition of ‘Federal  
20 depository institutions regulatory agency’ and  
21 in subparagraph (B) of the definition of ‘insti-  
22 tution-affiliated party’).

23           “‘intellectual property’ means—

24           “(A) a trade secret;

1           “(B) an invention, process, design, or plant  
2           protected under title 35;

3           “(C) a patent application;

4           “(D) a plant variety;

5           “(E) a work of authorship protected under  
6           title 17; and

7           “(F) a mask work protected under chapter  
8           9 of title 17, to the extent protected by applica-  
9           ble nonbankruptcy law.

10          “‘judicial lien’ means a lien obtained by judg-  
11          ment, levy, sequestration, or other legal or equitable  
12          process or proceeding.

13          “‘lien’ means a charge against or interest in  
14          property to secure payment of a debt or performance  
15          of an obligation.

16          “‘margin payment’, as used in sections  
17          362(b)(6), 546 (e) and (f), 548 (d)(2) (B) and (C),  
18          556, 741(5), 761(15), 764(b), 766(a), and any other  
19          provision of this title in relation to forward con-  
20          tracts, means a payment or deposit of cash, a secu-  
21          rity, or other property that is commonly known in  
22          the forward contract trade as original margin, initial  
23          margin, maintenance margin, or variation margin,  
24          including market-to-market payments or variation  
25          payments.

1           “‘mask work’ has the meaning given it in sec-  
2           tion 901(a)(2) of title 17.

3           “‘municipality’ means a political subdivision or  
4           public agency or instrumentality of a State.

5           “‘person’ includes an individual, partnership,  
6           and corporation, but does not include a govern-  
7           mental unit, except that a governmental unit that  
8           acquires an asset from a person as a result of oper-  
9           ation of a loan guarantee agreement, or as receiver  
10          or liquidating agent of a person, shall be considered  
11          to be a person for purposes of section 1102.

12          “‘petition’ means a petition filed under section  
13          301, 302, 303, or 304 commencing a case under this  
14          title.

15          “‘purchaser’ means a transferee of a voluntary  
16          transfer, and includes an immediate or mediate  
17          transferee of such a transferee.

18          “‘railroad’ means a common carrier by railroad  
19          engaged in the transportation of individuals or prop-  
20          erty or owner of trackage facilities leased by such a  
21          common carrier.

22          “‘relative’ means an individual related by affin-  
23          ity or consanguinity within the third degree as deter-  
24          mined by the common law and an individual in a

1 step or adoptive relationship within such third de-  
2 gree.

3 “‘repo participant’ means an entity that, on  
4 any day during the period beginning 90 days before  
5 the date of the filing of a petition, has an outstand-  
6 ing repurchase agreement with the debtor.

7 “‘repurchase agreement’ and ‘reverse repur-  
8 chase agreement’ mean an agreement, including re-  
9 lated terms, which provides for the transfer of cer-  
10 tificates of deposit, eligible bankers’ acceptances, or  
11 securities that are direct obligations of, or that are  
12 fully guaranteed as to principal and interest by, the  
13 United States or any agency of the United States  
14 against the transfer of funds by the transferee of  
15 such certificates of deposit, eligible bankers’ accept-  
16 ances, or securities with a simultaneous agreement  
17 by such transferee to transfer to the transferor  
18 thereof certificates of deposit, eligible bankers’ ac-  
19 ceptances, or securities as described above, at a date  
20 certain not later than 1 year after such transfers or  
21 on demand, against the transfer of funds.

22 “‘security’—

23 “(A) includes—

24 “(i) a note;

25 “(ii) stock;

1 “(iii) treasury stock;

2 “(iv) a bond;

3 “(v) a debenture;

4 “(vi) a collateral trust certificate;

5 “(vii) a preorganization certificate or  
6 subscription;

7 “(viii) a transferable share;

8 “(ix) a voting-trust certificate;

9 “(x) a certificate of deposit;

10 “(xi) a certificate of deposit for secu-  
11 rity;

12 “(xii) an investment contract or cer-  
13 tificate of interest or participation in a  
14 profit-sharing agreement or in an oil, gas,  
15 or mineral royalty or lease, if such contract  
16 or interest is required to be the subject of  
17 a registration statement filed with the Se-  
18 curities and Exchange Commission under  
19 the provisions of the Securities Act of  
20 1933 (15 U.S.C. 77a et seq.), or is exempt  
21 under section 3(b) of that Act (15 U.S.C.  
22 77c(b)) from the requirement to file such  
23 a statement;

24 “(xiii) an interest of a limited partner  
25 in a limited partnership;

1           “(xiv) another claim or interest com-  
2 monly known as a ‘security’; and

3           “(xv) a certificate of interest or par-  
4 ticipation in, temporary or interim certifi-  
5 cate for, receipt for, or warrant or right to  
6 subscribe to or purchase or sell, a security;  
7 but

8           “(B) does not include—

9           “(i) currency or a check, draft, bill of  
10 exchange, or bank letter of credit;

11           “(ii) a leverage transaction (as de-  
12 fined in section 761);

13           “(iii) a commodity futures contract or  
14 forward contract;

15           “(iv) an option, warrant, or right to  
16 subscribe to or purchase or sell a commod-  
17 ity futures contract;

18           “(v) an option to purchase or sell a  
19 commodity;

20           “(vi) a contract or certificate of a  
21 kind specified in subparagraph (A)(xii)  
22 that is not required to be the subject of a  
23 registration statement filed with the Secu-  
24 rities and Exchange Commission and is not  
25 exempt under section 3(b) of the Securities



1 Act of 1933 (15 U.S.C. 77c(b)) from the  
2 requirement to file such a statement; or

3 “(vii) debt or an evidence of indebted-  
4 ness for goods sold and delivered or serv-  
5 ices rendered.

6 “‘security agreement’ means an agreement that  
7 creates or provides for a security interest.

8 “‘securities clearing agency’ means a person  
9 that is registered as a clearing agency under section  
10 17A of the Securities Exchange Act of 1934 (15  
11 U.S.C. 78q-1) or whose business is confined to the  
12 performance of functions of a clearing agency with  
13 respect to exempted securities (as defined in section  
14 3(a)(12) of that Act (15 U.S.C. 78c(12)) for the  
15 purposes of that section 17A.

16 “‘security interest’ means a lien created by an  
17 agreement.

18 “‘settlement payment’ means, for purposes of  
19 the forward contract provisions of this title, a pre-  
20 liminary settlement payment, partial settlement pay-  
21 ment, interim settlement payment, settlement pay-  
22 ment on account, final settlement payment, net set-  
23 tlement payment, or any other similar payment com-  
24 monly used in the forward contract trade.

1           “‘State’ includes the District of Columbia and  
2           Puerto Rico, except for the purpose of defining who  
3           may be a debtor under chapter 9.

4           “‘statutory lien’ means a lien arising solely by  
5           force of a statute on specified circumstances or con-  
6           ditions, or lien of distress for rent, whether or not  
7           statutory, but does not include a security interest or  
8           judicial lien, whether or not such interest or lien is  
9           provided by or is dependent on a statute and wheth-  
10          er or not such interest or lien is made fully effective  
11          by statute.

12          “‘stockbroker’ means a person—

13               “(A) with respect to which there is a cus-  
14               tomer (as defined in section 741); and

15               “(B) that is engaged in the business of  
16               effecting transactions in securities—

17                       “(i) for the account of others; or

18                       “(ii) with members of the general  
19                       public, from or for such person’s own ac-  
20                       count.

21          “‘swap agreement’ means—

22               “(A) an agreement (including terms and  
23               conditions incorporated by reference therein)  
24               which is a rate swap agreement, basis swap,  
25               forward rate agreement, commodity swap, inter-

1 est rate option, forward foreign exchange agree-  
2 ment, rate cap agreement, rate floor agreement,  
3 rate collar agreement, currency swap agree-  
4 ment, cross-currency rate swap agreement, cur-  
5 rency option, or any other similar agreement  
6 (including any option to enter into any of the  
7 foregoing);

8 “(2) any combination of the foregoing; or

9 “(3) a master agreement for any of the  
10 foregoing together with all supplements.

11 “‘swap participant’ means an entity that, at  
12 any time before the filing of a petition, has an out-  
13 standing swap agreement with the debtor.

14 “‘timeshare interest’ means an interest pur-  
15 chased in a timeshare plan which grants the pur-  
16 chaser the right to use and occupy accommodations,  
17 facilities, or recreational sites, whether improved or  
18 unimproved, pursuant to a timeshare plan.

19 “‘timeshare plan’ means an interest in any ar-  
20 rangement, plan, scheme, or similar device (but not  
21 including an exchange program), whether by mem-  
22 bership, agreement, tenancy in common, sale, lease,  
23 deed, rental agreement, license, right to use agree-  
24 ment, or by any other means, whereby a purchaser  
25 of the interest, in exchange for consideration, re-

1 ceives a right to use accommodations, facilities, or  
 2 recreational sites, whether improved or unimproved,  
 3 for a specific period of time less than a full year  
 4 during any given year, but not necessarily for con-  
 5 secutive years, and which extends for a period of  
 6 more than 3 years.

7 “‘transfer’ means a mode, direct or indirect,  
 8 absolute or conditional, voluntary or involuntary, of  
 9 disposing of or parting with property or with an in-  
 10 terest in property, including retention of title as a  
 11 security interest and foreclosure of the debtor’s eq-  
 12 uity of redemption.

13 “‘United States’, when used in a geographical  
 14 sense, includes all locations where the judicial juris-  
 15 diction of the United States extends, including terri-  
 16 tories and possessions of the United States.

17 (b) REFERENCES TO DEFINITIONS IN TITLE XI.—

18 (1) SECTION 362.—Section 362(b) of title 11,  
 19 United States Code, is amended—

20 (A) in paragraph (6)—

21 (i) by striking “section 761(4)” and  
 22 inserting “section 761”;

23 (ii) by striking “section 741(7)” and  
 24 inserting “section 741”;

1 (iii) by striking “section 101(34),  
2 741(5), or 761(15)” and inserting “section  
3 101, 741, or 761”; and

4 (iv) by striking “section 101(35) or  
5 741(8)” and inserting “section 101 or  
6 741”; and

7 (B) in paragraph (7)—

8 (i) by striking “section 741(5) or  
9 761(15)” and inserting “section 741 or  
10 761”; and

11 (ii) by striking “section 741(8)” and  
12 inserting “section 741”.

13 (2) SECTION 507.—Section 507(a)(5) of title  
14 11, United States Code, is amended—

15 (A) by striking “section 557(b)(1)” and in-  
16 serting “section 557(b)”; and

17 (B) by striking “section 557(b)(2)” and in-  
18 serting “section 557(b)”.

19 (3) Section 546 of title 11, United States Code,  
20 is amended—

21 (A) in subsection (e)—

22 (i) by striking “section 101(34),  
23 741(5), or 761(15)” and inserting “section  
24 101, 741, or 761”; and

1 (ii) by striking “section 101(35) or  
2 741(8)” and inserting “section 101 or  
3 741”; and

4 (B) in subsection (f)—

5 (i) by striking “section 741(5) or  
6 761(15)” and inserting “section 741 or  
7 761”; and

8 (ii) by striking “section 741(8)” and  
9 inserting “section 741”.

10 (4) SECTION 548.—Section 548(d)(2) of title  
11 11, United States Code, is amended—

12 (A) in subparagraph (B)—

13 (i) by striking “section 101(34),  
14 741(5) or 761(15)” and inserting “section  
15 101, 741, or 761”; and

16 (ii) by striking “section 101(35) or  
17 741(8)” and inserting “section 101 or  
18 741”; and

19 (B) in subparagraph (C)—

20 (i) by striking “section 741(5) or  
21 761(15)” and inserting “section 741 or  
22 761”; and

23 (ii) by striking “section 741(8)” and  
24 inserting “section 741”.

1           (5) SECTION 555.—Section 555 of title 11,  
2       United States Code, is amended by striking “section  
3       741(7)” and inserting “section 741”.

4           (6) SECTION 556.—Section 556 of title 11,  
5       United States Code, is amended by striking “section  
6       761(4)” and inserting “section 761”.

7       (c) REFERENCES TO DEFINITIONS IN OTHER  
8       LAWS.—

9           (1) FEDERAL CREDIT UNION ACT.—Section  
10       207(c)(8)(D) of the Federal Credit Union Act (12  
11       U.S.C. 1787(c)(8)(D)) is amended—

12               (A) in clause (ii)(I) by striking “section  
13       741(7)” and inserting “section 741”;

14               (B) in clause (iii) by striking “section  
15       101(24)” and inserting “section 101”;

16               (C) in clause (iv)(I) by striking “section  
17       101(41)” and inserting “section 101”; and

18               (D) in clause (v) by striking “section  
19       101(50)” and inserting “section 101”.

20           (2) FEDERAL DEPOSIT INSURANCE ACT.—Sec-  
21       tion 11(e)(8)(D) of the Federal Deposit Insurance  
22       Act (12 U.S.C. 1821(e)(8)(D)) is amended—

23               (A) in clause (ii)(I) by striking “section  
24       741(7)” and inserting “section 741”;

1 (B) in clause (iii) by striking “section  
2 761(4)” and inserting “section 761”;

3 (C) in clause (iv) by striking “section  
4 101(24)” and inserting “section 101”;

5 (D) in clause (v)(I) by striking “section  
6 101(41)” and inserting “section 101”; and

7 (E) in clause (viii) by striking “section  
8 101(50)” and inserting “section 101”.

9 (d) OTHER TECHNICAL AMENDMENTS.—Title 11 of  
10 the United States Code is amended—

11 (1) in section 322(a) by striking “1302, or  
12 1202” and inserting “1202, or 1302”,

13 (2) in section 346—

14 (A) in subsection (a) by striking “Internal  
15 Revenue Code of 1954 (26 U.S.C. 1 et seq.)”  
16 and inserting “Internal Revenue Code of  
17 1986”; and

18 (B) in subsection (g)(1)(C) by striking  
19 “Internal Revenue Code of 1954 (26 U.S.C.  
20 371)” and inserting “Internal Revenue Code of  
21 1986”;

22 (3) in section 348—

23 (A) in subsection (b) by striking “728(a),  
24 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c),  
25 1141(d)(4), 1146(a), 1146(b), 1301(a),



1           1305(a), 1201(a), 1221, and 1228(a)” and in-  
2           serting “728 (a) and (b), 1021, 1028, 1102(a),  
3           1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146  
4           (a) and (b), 1201(a), 1221, 1228(a), 1301(a),  
5           and 1305(a)”;

6           (B) in subsections (b), (c), (d), and (e) by  
7           striking “1307, or 1208” each place it appears  
8           and inserting “1208, or 1307”;

9           (4) in section 349(a) by striking “109(f)” and  
10          inserting “109(g)”;

11          (5) in section 362(b)—

12           (A) by striking “or” at the end of para-  
13           graph (10);

14           (B) in paragraph (12) by striking “the  
15           Ship Mortgage Act, 1920 (46 App. U.S.C. 911  
16           et seq.)” and inserting “section 31325 of title  
17           46, United States Code”;

18           (C) in paragraph (13)—

19           (i) by striking “the Ship Mortgage  
20           Act, 1920 (46 App. U.S.C. 911 et seq.)”  
21           and inserting “section 31325 of title 46,  
22           United States Code”; and

23           (ii) by striking “or” at the end;

24           (D) in paragraph (14), as added by section  
25          102 of Public Law 101-311 (104 Stat. 267) at

1 the end of the subsection, by removing it from  
2 the end of the subsection, inserting it after  
3 paragraph (13), and striking the period at the  
4 end and inserting a semicolon; and

5 (E) by redesignating paragraphs (14),  
6 (15), and (16), as added by section 3007(a) of  
7 the Student Loan Default Prevention Initiative  
8 Act of 1990 (104 Stat. 1388–28), as para-  
9 graphs (15), (16), and (17);

10 (6) in section 363(c)(1) by striking “1304,  
11 1203, or 1204” and inserting “1203, 1204, or  
12 1304”;

13 (7) in section 364(a) by striking “1304, 1203,  
14 or 1204” and inserting “1203, 1204, or 1304”;

15 (8) in section 365—

16 (A) in subsection (g)(2) (A) and (B) by  
17 striking “1307, or 1208” each place it appears  
18 and inserting “1208, or 1307”;

19 (B) in subsection (n)(1)(B) by striking “to  
20 to” and inserting “to”; and

21 (C) in subsection (o) by striking “the Fed-  
22 eral” the first place it appears and all that fol-  
23 lows through “successors,” and inserting “a  
24 Federal depository institutions regulatory agen-  
25 cy (or predecessor to such an agency)”;

1 (9) in section 507—

2 (A) in subsection (a)(9), as redesignated  
3 by section 304(b)(1)(B), by striking “the Fed-  
4 eral” the first place it appears and all that fol-  
5 lows through “successors,” and inserting “a  
6 Federal depository institutions regulatory agen-  
7 cy (or predecessor to such an agency)”; and

8 (B) in subsection (d) by striking “(a)(3),  
9 (a)(4), (a)(5), or (a)(6)” and inserting “(a) (3),  
10 (4), (6), or (7)”; and

11 (10) in section 522(d)(10)(E)(iii) by striking  
12 “401(a), 403(a), 403(b), 408, or 409 Internal Reve-  
13 nue Code of 1954 (26 U.S.C. 401(a), 403(a),  
14 403(b), 408, or 409)” and inserting “section 401(a),  
15 403 (a) or (b), 408, or 409 of the Internal Revenue  
16 Code of 1986”;

17 (11) in section 523(a) —

18 (A) in subsection (a)—

19 (i) by striking “1141,, 1228(a),  
20 1228(b),” and inserting “1141, 1228 (a)  
21 or (b),”; and

22 (ii) in paragraph (12) by striking the  
23 semicolon at the end and inserting a pe-  
24 riod; and

1 (B) in subsection (e) by striking “deposi-  
2 tory institution or insured credit union” and in-  
3 serting “insured depository institution”;

4 (12) in section 524—

5 (A) in subsection (a)(3) by striking “or  
6 1328(c)(1)” and inserting “1228(a)(1), or  
7 1328(a)(1)”;

8 (B) in subsection (c)(4) by striking  
9 “recission” and inserting “rescission”; and

10 (C) in subsection (d)(1)(B)(ii) by adding  
11 “and” at the end;

12 (12) in section 541(b)—

13 (A) by inserting “(1)” after “(b)” and re-  
14 designating paragraphs (1), (2), (3), and (4) as  
15 subparagraphs (A), (B), (C), and (D), respec-  
16 tively;

17 (B) in subparagraph (D) of paragraph (1),  
18 as redesignated by subparagraph (A), by redes-  
19 ignating subparagraphs (A) and (B) as clauses  
20 (i) and (ii), respectively;

21 (C) in subparagraph (C) of paragraph (1),  
22 as redesignated by subparagraph (A), by strik-  
23 ing “institution or” and inserting “institution;  
24 or”; and

1 (D) in the matter following subparagraph  
2 (D) of paragraph (1), as redesignated by sub-  
3 paragraph (A), by striking “Paragraph (4) shall  
4 not” and inserting the following:

5 “(2) Paragraph (1)(D) shall not”.

6 (13) in section 542(e) by striking “to to” and  
7 inserting “to”;

8 (14) in section 543(d)(1) by striking “of eq-  
9 uity” and inserting “if equity”;

10 (15) in section 546(a)(1) by striking “1302, or  
11 1202” and inserting “1202, or 1302”;

12 (16) in section 549(b) by inserting “the trustee  
13 may not avoid under subsection (a) of this section”  
14 after “involuntary case,”;

15 (17) in section 553—

16 (A) in subsection (a)(1) by striking “other  
17 than under section 502(b)(3) of this title”; and

18 (B) in subsection (b)(1) by striking  
19 “362(b)(14),” and inserting “362(b)(14),”;

20 (18) in section 706(a) by striking “1307, or  
21 1208” and inserting “1208, or 1307”;

22 (19) in section 724(d) by striking “Internal  
23 Revenue Code of 1954 (26 U.S.C. 6323)” and in-  
24 serting “Internal Revenue Code of 1986”;

1           (20) in section 726(b) by inserting a comma  
2 after “section 1112”;

3           (21) in section 743 by striking “342(a)” and  
4 inserting “342”;

5           (22) in section 745(c) by striking “Internal  
6 Revenue Code of 1954 (26 U.S.C. 1 et seq.)” and  
7 inserting “Internal Revenue Code of 1986”;

8           (23) in section 1104(c) inserting a comma after  
9 “interest”;

10          (24) in section 1123(a)(1) inserting a comma  
11 after “title” the last place it appears;

12          (25) in section 1129(a)—

13               (A) in paragraph (4) by striking the semi-  
14 colon at the end and inserting a period; and

15               (B) in paragraph (12) by inserting “of title  
16 28” after “section 1930”;

17          (26) in section 1145(a) by striking “does” and  
18 inserting “do”;

19          (27) in section 1226(b)(2)—

20               (A) by striking “1202(d) of this title” and  
21 inserting “1202(c)”;

22               (B) by striking “1202(e) of this title” and  
23 inserting “1202(d)”;

24          (28) in section 1302(b)(3) by striking “and” at  
25 the end;

1 (29) in section 1328(a)(2) by striking “(5) or  
2 (8)” and inserting “(5), (8), or (9)”; and  
3 (30) in the table of chapters by striking the  
4 item relating to chapter 15.

5 **SEC. 602. TITLE 28, UNITED STATES CODE.**

6 Section 586(a)(3) of title 28, United States Code, is  
7 amended in the matter preceding subparagraph (A) by in-  
8 serting “12,” after “11,”.

9 **TITLE VII—SEVERABILITY; EF-**  
10 **FECTIVE DATE; APPLICATION**  
11 **OF AMENDMENTS**

12 **SEC. 701. SEVERABILITY.**

13 If any provision of this Act or amendment made by  
14 this Act or the application of such provision or amendment  
15 to any person or circumstance is held to be unconstitu-  
16 tional, the remaining provisions of and amendments made  
17 by this Act and the application of such other provisions  
18 and amendments to any person or circumstance shall not  
19 be affected thereby.

20 **SEC. 702. EFFECTIVE DATE; APPLICATION OF AMEND-**  
21 **MENTS.**

22 (a) EFFECTIVE DATE.—Except as provided in sub-  
23 section (b), this Act and the amendments made by this  
24 Act shall take effect on the date of enactment of this Act.

25 (b) APPLICATION OF AMENDMENTS.—

1           (1) IN GENERAL.—Except as provided in sec-  
 2           tion 115(c) and in paragraph (2) of this subsection,  
 3           the amendments made by this Act shall not apply  
 4           with respect to cases commenced under title 11,  
 5           United States Code, before the date of enactment of  
 6           this Act.

7           (2) SECTION 1110 OF TITLE 11.—Section 1110  
 8           of title 11, United States Code, as amended by sec-  
 9           tion 203, shall apply with respect to any lease (as  
 10          defined in section 1110(c)), entered into in connec-  
 11          tion with a settlement of any litigation in any case  
 12          pending under title 11, United States Code, on the  
 13          date of enactment of this Act.

## 14       **TITLE VIII—MISCELLANEOUS** 15       **PROVISIONS**

### 16   **SEC. 801. LIMITATION ON STATE TAXATION OF CERTAIN** 17       **PENSION INCOME.**

18          (a) IN GENERAL.—Chapter 4 of title 4 of the United  
 19       States Code is amended by adding at the end thereof the  
 20       following new section:

#### 21   **“§ 114. Limitation on State income taxation of pen-** 22       **sion income**

23          “(a) No State may impose an income tax (as defined  
 24       in section 110(c)) on the qualified pension income of any



1 individual who is not a resident or domiciliary of such  
2 State.

3 “(b)(1) For purposes of subsection (a), the term  
4 ‘qualified pension income’ means any payment from a  
5 qualified plan—

6 “(A) which is part of a series of substantially  
7 equal periodic payments (not less frequently than  
8 annually) made for—

9 “(i) the life or life expectancy of the recipi-  
10 ent or for the joint lives or joint life  
11 expectancies of the recipient and the recipient’s  
12 designated beneficiary, or

13 “(ii) a period of not less than 10 years, or

14 “(B) which is not described in subparagraph  
15 (A) and which—

16 “(i) is received in a taxable year for which  
17 an election under this subsection is in effect,  
18 and

19 “(ii) is received on or after the date on  
20 which the recipient has attained the age of  
21 59½,

22 except that the aggregate amount of payments to  
23 which this subparagraph may apply for any taxable  
24 year shall not exceed \$25,000.

1       “(2) For purposes of paragraph (1), the term ‘quali-  
2   fied plan’ means—

3               “(A) an employees’ trust described in section  
4       401(a) of the Internal Revenue Code of 1986 which  
5       is exempt from tax under section 501(a) of such  
6       Code,

7               “(B) a simplified employee pension described in  
8       section 408(k) of such Code,

9               “(C) an annuity plan described in section  
10      403(a) of such Code,

11              “(D) an annuity contract described in section  
12      403(b) of such Code,

13              “(E) an individual retirement plan described in  
14      section 7701(a)(37) of such Code,

15              “(F) an eligible deferred compensation plan  
16      under section 457 of such Code, or

17              “(G) a governmental plan described in section  
18      414(d) of such Code, other than a plan established  
19      and maintained by a State or political subdivision of  
20      a State, or an agency or instrumentality of either.

21       “(3) For purposes of paragraph (1), any retired or  
22   retainer pay of a member or former member of a uniform  
23   service computed under chapter 71 of title 10, United  
24   States Code, shall be treated as a payment from a quali-  
25   fied plan.

1       “(4)(A) An election under paragraph (1)(B), once  
2 made for a taxable year, may not be made for any other  
3 taxable year.

4       “(B) In calendar years beginning after 1994, the  
5 \$25,000 amount referred to in paragraph (1)(B) shall be  
6 increased by an amount equal to such dollar amount, mul-  
7 tiplied by the cost-of-living adjustment determined under  
8 section 1(f)(3) of such Code for such calendar year by sub-  
9 stituting ‘calendar year 1993’ for ‘calendar year 1992’ in  
10 subparagraph (B) thereof.

11       “(c) For purposes of subsection (a), the term ‘State’  
12 includes any political subdivision of a State, the District  
13 of Columbia, and the possessions of the United States.”

14       (b) CLERICAL AMENDMENT.—The table of sections  
15 for such chapter 4 is amended by adding at the end there-  
16 of the following new item:

“114. Limitation on State income taxation of pension income.”

17       (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning after  
19 the date of the enactment of this Act.

20 **SEC. 802. PROTECTION AGAINST DISCRIMINATORY TREAT-**  
21 **MENT OF APPLICATIONS FOR STUDENT**  
22 **LOANS.**

23       Section 525 of title 11, United States Code, is  
24 amended by adding at the end the following new sub-  
25 section:

1       “(c)(1) A governmental unit that operates a student  
 2 grant or loan program and a person engaged in a business  
 3 that includes the making of loans guaranteed or insured  
 4 under a student loan program may not deny a grant, loan,  
 5 loan guarantee, or loan insurance to a person that is or  
 6 has been a debtor under this title or a bankrupt or debtor  
 7 under the Bankruptcy Act, or another person with whom  
 8 the debtor or bankrupt has been associated, because the  
 9 debtor or bankrupt is or has been a debtor under this title  
 10 or a bankrupt or debtor under the Bankruptcy Act, has  
 11 been insolvent before the commencement of a case under  
 12 this title or during the pendency of the case but before  
 13 the debtor is granted or denied a discharge, or has not  
 14 paid a debt that is dischargeable in the case under this  
 15 title or that was discharged under the Bankruptcy Act.

16       “(2) In this section, ‘student loan program’ means  
 17 the program operated under part B, D, or E of title IV  
 18 of the Higher Education Act of 1965 (20 U.S.C. 1070  
 19 et seq.) or a similar program operated under State or local  
 20 law.”.

21 **SEC. 803. CHICAGO HOUSING AUTHORITY.**

22       (a) FINDINGS.—The Senate finds that—

23               (1) It is the fundamental obligation of govern-  
 24       ment to protect its citizens;

1           (2) In many federally-financed public housing  
2 projects, the level of violence has reached epidemic  
3 proportions, threatening on a daily basis the lives of  
4 the majority of the tenants, who are law-abiding;

5           (3) In an effort to combat gang and drug-relat-  
6 ed violence, the Chicago Housing Authority  
7 (“CHA”) instituted a policy of conducting  
8 warrantless, apartment-to-apartment searches of  
9 CHA projects, including the Robert Taylor Homes;

10          (4) On April 7, 1994, Federal district court  
11 judge Warren Andersen ruled that CHA’s search  
12 policy violated the Fourth Amendment to the Con-  
13 stitution of the United States and enjoined CHA of-  
14 ficials from undertaking these searches;

15          (5) After the court decision, President Clinton  
16 directed Attorney General Janet Reno and Secretary  
17 of Housing and Urban Development Henry Cisneros  
18 to develop law enforcement measures that would be  
19 both constitutionally valid and effective in reducing  
20 violent crime in public housing projects; and

21          (6) President Clinton subsequently announced  
22 new Federal guidelines designed to assist public  
23 housing officials in maintaining order and protecting  
24 the security of their law-abiding tenants.

1       (b) Therefore, it is the sense of the Senate that the  
2 Senate fully endorses the new Administration guidelines,  
3 outlined in a letter to President Clinton from Attorney  
4 General Reno and Secretary of Housing and Urban Devel-  
5 opment Cisneros, dated April 14, 1994, including the  
6 guidelines allowing public housing officials to (1) erect  
7 fences around public housing buildings, issue identification  
8 cards to tenants, and install metal detectors or  
9 magnetometers at the building entrances; (2) search the  
10 packages and clothing of anyone seeking to enter public  
11 housing buildings and refuse entry to anyone who does  
12 not submit to inspection; (3) conduct weapons searches  
13 without consent or a warrant in common areas of the  
14 buildings, such as stairwells, and in vacant apartments;  
15 (4) frisk “suspicious-looking” individuals for weapons, if  
16 police or security personnel have a reason to believe that  
17 the individuals are involved in criminal activity and are  
18 armed; (5) include noncoercive consent clauses in lease  
19 agreements permitting routine warrantless apartment-by-  
20 apartment police searches for illegal weapons and illegal  
21 drugs, so long as residency or continued residency in pub-  
22 lic housing is not contingent upon the inclusion of such  
23 consent clause as a provision of a lease agreement; and  
24 (6) conduct warrantless searches of individual units where

- 1 there is justification for a search but insufficient time to
- 2 obtain a judicial warrant.

Passed the Senate April 21 (legislative day, April 11), 1994.

Attest:

*Secretary.*

S 540 ES——2

S 540 ES——3

S 540 ES——4

S 540 ES——5

S 540 ES——6

S 540 ES——7

S 540 ES——8

S 540 ES——9

S 540 ES——10